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Monitoring Report:

The Principles of Public Administration

SERBIA

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LIST OF ABBREVIATIONS AND ACRONYMS

ACA	Anti-Corruption Agency
AFCOS	Anti-Fraud Co-ordination Services
AI	Administrative Inspectorate
APIGP	Action Plan for Implementation of the Government Programme
BPF	Beneficiaries of Public Funds
BSL	Budget System Law
CHU	Central Harmonisation Unit
CIO	Chief Information Officer
CoG	centre of government
CSL	Civil Service Law
DMS	Debt Management Strategy
EC	European Commission
EI	European integration
ESA	European System of Accounts
EU	European Union
FIA	Financial Impact Assessment
FMC	financial management and control
FMIS	Financial Management Information System
FS	Fiscal Strategy
GAWP	Government Annual Work Plan
GDP	gross domestic product
GSB	Government Service Bus
GSG	General Secretariat of the Government
HCSC	High Civil Service Council
HJC	High Judicial Council
HRM	human resource management
HRMIS	Human Resource Management Information System
HRMS	Human Resources Management Service
IA	internal audit
IPA	Instrument for Pre-accession Assistance
IRM	independent review mechanism
ISSAIs	International Standards of Supreme Audit Institutions
IT	information technology
LFAI	Law on Free Access to Information

Serbia
List of Abbreviations and Acronyms

LGAP	Law on General Administrative Procedure
LoA	Law on Agencies
LoG	Law on Government
LoM	Law on Ministries
LSA	Law on State Administration
LSAI	Law on the State Audit Institution
MAEP	Ministry of Agriculture and Environmental Protection
MIE	Ministry of European Integration
MP	Member of Parliament
MoF	Ministry of Finance
MOI	Ministry of Interior
MoU	memorandum of understanding
MPALSG	Ministry of Public Administration and Local Self-Government
MTBF	medium-term budgetary framework
MTEF	Medium-Term Expenditure Framework
MTTT	Ministry of Trade, Tourism, and Telecommunications
NAD	National Priorities for International Assistance
NALED	National Alliance for Local Economic Development
NGO	non-governmental organisation
NIC	National Investment Council
NPAA	National Programme for the Adoption of the <i>Acquis</i>
OGP	Open Government Partnership
PAR	public administration reform
PDA	Public Debt Administration
PDL	Public Debt Law
PFB	Public Finance Bulletin
PFM	public financial management
PFMRP	Public Financial Management Reform Program
PIFC	public internal financial control
PIT	personal income tax
PM	Prime Minister
PPL	Public Procurement Law
PPO	Public Procurement Office
PPP	public-private partnership
PPS	Public Policy Secretariat
RCPRPP	Republic Commission for the Protection of Rights in Public Procurement Procedures
RIA	Regulatory Impact Assessment

Serbia
List of Abbreviations and Acronyms

RINO	Registry of Settlements of Pecuniary Commitments
RoP	rules of procedure
RSD	Serbian dinar
RSL	Republic Secretariat for Legislation
SAI	State Audit Institution
SAO	State Attorney's Office
SEIO	Serbian European Integration Office
SME(s)	small and medium-sized enterprise(s)
SOE	state-owned enterprise
TA	Treasury Administration
TSA	Treasury Single Account
WCAG	Web Content Accessibility Guidelines

INTRODUCTION

SIGMA developed the Principles of Public Administration in 2014 to support the European Commission's reinforced approach to public administration reform (PAR) in the European Union (EU) Enlargement process. In 2017, the Principles¹ were updated and a new methodological framework developed to improve clarity, without changing the substance of the conceptual framework. The Principles define what good public governance entails in practice and outline the main requirements to be followed by countries during EU integration. The monitoring framework enables regular analysis of progress made in applying the Principles and setting country benchmarks.

In 2015 SIGMA undertook comprehensive Baseline Measurement assessments for the seven EU Enlargement candidate countries and potential candidates against the Principles and has continued to monitor subsequently the progress of PAR. Monitoring reports were also published in 2016 for assessments in selected priority areas of PAR.

This 2017 Monitoring Report, for the period May 2015 to June 2017, covers the six key areas of reform: 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 and external audit.

The first part of the Report sets out major developments and progress made since 2015, based on the indicators and methodology used in the Baseline Measurement Reports. The analysis against individual Principles is further enhanced through the introduction of a new set of monitoring indicators and sub-indicators, described in the *Methodological Framework for the Principles of Public Administration*². The indicator values, based on the points allocated to each sub-indicator, are indicative and should not be used nor interpreted on their own without the context of the full qualitative analysis provided under each Principle.

The Report also contains short- and medium-term recommendations to help the administration take concrete actions for tackling some of the most important challenges. These include recommendations from the 2015 SIGMA Baseline Measurement Report³ which have not been implemented yet and are still relevant.

The analytical findings and recommendations in this Monitoring Report are also designed to inform the policy dialogue and discussions between the EC and the administration about priority areas for reform and potential support.

¹ OECD (2017), *The Principles of Public Administration*, OECD, Paris: <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>

² OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

³ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

OVERVIEW

Following the first Intergovernmental Conference on Serbia's accession to the European Union (EU), which was held in January 2014, the Government is actively pursuing the EU integration agenda. The EU *acquis communautaire* screening process proceeded according to plan and it was completed in March 2015. In its annual Progress Report published on 8 October 2014, the European Commission (EC) stated that for the period 2014-2020, the Instrument for Pre-accession Assistance would focus on supporting reform efforts in direct line with the negotiation process, in particular in the areas of rule of law and governance, as well as competitiveness and growth.

Several negotiating chapters have been opened, including Chapter 35 dealing with normalisation of relations between Serbia and Kosovo* and the Chapters 23 and 24 dealing with the rule of law. Start of the accession negotiations brought new responsibilities in all areas and in this regard the 2016 EU Country Report stated that "[t]he core negotiating team and the Serbian administration continued to demonstrate a high level of preparedness and professionalism in the accession negotiations process".

Serbia has made steady progress in some areas of PAR since SIGMA's 2015 Baseline Measurement Report and the legal framework for a functioning public administration is in place, but the lack of effective institutional structures and inter-institutional co-operation hinders implementation of the legislation. The Public Administration Reform Strategy and its associated PAR Action Plan, along with the PFM Reform Programme, provide the foundation for implementing more cost-effective ways of delivering public services but the reforms will only be achieved if they are developed and implemented in a co-ordinated manner involving the key centre of government institutions. The delivery of tangible results for the reform agenda will depend on adequate administrative capacity, as well as appropriate institutional independence being guaranteed, especially in those cases where transparency and accountability are essential. The reform agenda needs to be delivered within the framework of the Government's fiscal consolidation programme, which aims to maintain the sustainability of the public finances.

This report identifies the following key PAR-related priority areas for Serbia :

- Despite significant efforts to ensure merit-based recruitment for senior positions, direct and indirect political influence on senior managerial appointments remains and the number of properly appointed senior managerial positions has decreased ;
- The key PAR planning documents still contain numerous non-reform-oriented activities and the overall implementation of planned PAR activities remains low ;
- There are serious shortcomings in the public availability of information about the implementation of various plans (including strategies), as well as with the legislative process, as the majority of draft laws submitted by the Government are adopted through an extraordinary procedure ;
- Although the Government has stabilised the public finances and reduced the debt burden significantly, the implementation of financial management and control arrangements within public sector organisations is low.

* This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

1

Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

The Government of Serbia acknowledges public administration reform (PAR) as one of its priorities in the key horizontal planning documents. The horizontal medium-term planning documents⁴ focus principally on a few key elements of the wider PAR agenda: rightsizing and increasing overall effectiveness of the public administration through improved public financial management (PFM) and public service delivery. The strategic framework for PAR has been established and covers the full scope of the Principles of Public Administration⁵. However, the key PAR planning documents still contain numerous non-reform-oriented activities, and costing of the reform actions is not complete.

The overall implementation of planned PAR activities remains low. This is at least partially due to the extensive preparation time for early general elections in April 2016 and subsequent formation of the Government. But it also stems from the ambitious plans and limited financial resources allocated to start some of the activities. As no information on outcome-level indicators is provided in the annual implementation reports, it is impossible to evaluate the level of achievement of PAR-related objectives. Financial information for funding PAR is available, as the Annual Budget for 2016 indicates budget lines for PAR and the PAR sector Medium-Term Expenditure Framework (MTEF) document⁶ explicitly cites budget programmes and amounts of financing.

The Ministry of Public Administration and Local Self-Government (MPALSG) is responsible for the overall co-ordination of PAR, and responsibilities for PAR activities with lead and involved institutions are clearly identified in the key PAR planning documents. Co-ordination mechanisms at the political and administrative levels had previously been established and are functioning, but the 2016 elections seriously disrupted the frequency of meetings at both levels. In addition, the co-ordination structure is overly complex, with intermediary forums duplicating co-ordination at both political and administrative levels.

1.2. Main developments

The following sections describe key changes in the public administration for each key requirement and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

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

Attention to PAR has increased in Serbia in recent years, with more systematic information available about the situation and greater awareness of PAR. During 2015 and 2016, the coverage of the PAR framework was improved by the adoption of several planning documents, most importantly the Public

⁴ Exposé of the Prime Minister (PM) of the Republic of Serbia, Aleksandar Vučić of 9 August 2016; the Fiscal Strategy for 2017, with projections for 2018 and 2019; the ERP 2016-2018 and the National Programme for the Adoption of the EU *Acquis* 2014-2018, July 2014.

⁵ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

⁶ PAR sector MTEF 2016-2018, Ministry of Finance (MoF) of October 2016.

Financial Management Reform Program⁷ (PFMRP) and the Electronic Governance Development Strategy and Action Plan⁸. Serbia now covers the full scope of PAR. This is an improvement and increases the value of the relevant indicator compared to the 2015 Baseline Measurement Report.

PAR monitoring and co-ordination mechanisms became operational, and for the second time since PAR reporting was launched, the 2016 annual implementation reports of the key PAR planning documents have been prepared and published in the first half of 2017. Compared to 2015, the PAR reporting and monitoring system has improved, since a number of implementation reports are now available. A major drawback, however, is the lack of information on outcome-level indicators and progress achieved against targets. By having regular monitoring reports but not addressing the progress against the set objectives in a clear manner, Serbia has only partially addressed the recommendation of the 2015 Baseline Measurement Report that: “Annual monitoring reports prepared from 2016 onwards should look beyond the implementation rate of individual actions and provide information on the outcomes of reform measures taken, based on the set performance indicators and their targets”⁹.

The preparation of the PAR sector’s MTEF 2016-2018 in late 2016 is a positive development in enhancing clarity on the funding of PAR. Due to the weaker quality of the PFMRP Action Plan and the Electronic Government Development Strategy Action Plan *vis-à-vis* the PAR Action Plan, values have decreased slightly compared to 2015 for the indicators on the share of resourced and costed PAR activities and the share of reform-oriented and development-oriented activities in the key PAR planning documents. The decrease in value of the indicator on the ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently is because the Economic Reform Programme (ERP) 2016-2018¹⁰ provides general remarks on the importance of the public sector reform, but no specific details.

Implementation of the planned activities remains a challenge. The average implementation rate for actions planned during 2016 is 34%, while only 5% of all PAR-related objectives were fully achieved. Also, there are major inconsistencies between planned and allocated amounts of funds for implementation. All these factors signal unrealistic planning of reforms.

A partial explanation for the weak implementation can be seen through the prism of the political priorities identified in the central planning documents, in which the ratio of PAR-related priorities dropped further in comparison with 2015. While PAR planning documents have a wide range of objectives and activities, the central planning documents have narrowed these down to rightsizing and improving effectiveness (also in terms of PFM) of the public administration, leaving other issues aside. Weak implementation is also linked to the fewer-than-envisaged meetings of the PAR co-ordinating bodies, despite the recommendation of the 2015 Baseline Measurement Report that: “The PAR management and co-ordination bodies should continue to meet regularly and discuss the progress achieved in the implementation of the PAR Action Plan”¹¹.

⁷ PFMRP 2016-2020, Government Decision 05 No. 40-12695/2015-1, adopted on 25 November 2015 and amended on 25 December 2015.

⁸ Serbian Electronic Government Development Strategy 2015-2018 and the Action Plan for the Implementation of the Strategy 2015-2016, Government Decision 05 No. 021-13530/2015, adopted on 17 December 2015.

⁹ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p.11, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

¹⁰ ERP 2016-2018, Government Decision 05 No. 4-1626/2017-1, adopted on 3 March 2016.

¹¹ *Idem*, p.14.

Table 1: Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports¹²:

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the scope of PAR central planning document(s) is complete.	4	5
	Extent to which a comprehensive PAR reporting and monitoring system is in place.	1	2
Quantitative	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	50%	40%
	Share of public administration development activities and reforms from all activities in PAR planning documents.	76%	69%
	Annual implementation backlog ¹³ of public administration development activities and reforms.	Not available ¹⁴	Not available ¹⁵
	Percentage of fulfilled PAR objectives.	Not available ¹⁶	5%
	Share of resourced and costed PAR measures.	94%	73%

¹² OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris. <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>

¹³ The indicator looks at the implementation rate of public administration development activities and reforms within the particular year.

¹⁴ The value of the indicator cannot be calculated because the PAR Action Plan was adopted only in 2015, while the PAR Strategy adopted in early 2014 did not foresee particular reform actions.

¹⁵ The value of the indicator cannot be calculated properly as the operational-level PAR planning documents mention only a few legal acts precisely. In the majority of cases, the formulation “completion of legal framework” is used. Therefore, a comparison with the Government Annual Action Plan is not possible. The only legislative action foreseen for 2017 and indicated precisely – amendments to the Civil Service Law (activity 6 under result 2.2.3 in the PAR Action Plan) – can also be found in the 2017 Government Annual Action Plan.

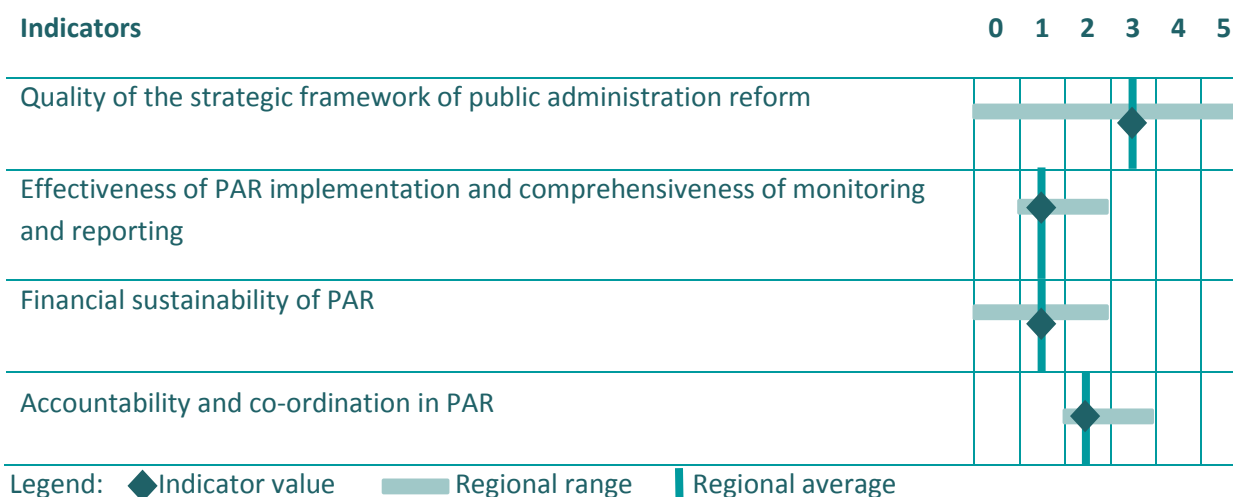
¹⁶ The indicator value cannot be established for 2014, as the PAR Strategy did not have any measurable objectives (performance indicators and targets). The PAR Action Plan adopted in early 2015 includes performance indicators and specific targets, which will allow future monitoring of the implementation of the specific PAR objectives.

2. ANALYSIS

This analysis covers four Principles for the strategic framework of public administration reform area, grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators¹⁷, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

PAR is recognised as a priority in the key horizontal medium-term planning documents: Exposé of the Prime Minister (PM)¹⁸, the Fiscal Strategy for 2017 with projections for 2018 and 2019¹⁹, and the National Programme for the Adoption of the EU *Acquis* 2014-2018²⁰. The only document providing more general remarks on the importance of the public sector reform without specific details is the ERP 2016-2018.

¹⁷ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

¹⁸ Exposé of the PM of the Republic of Serbia, Aleksandar Vučić of 9 August 2016.

¹⁹ Fiscal Strategy for 2017, with projections for 2018 and 2019, Government Decision 05 No. 400-11440/2016-1, adopted on 1 December 2016.

²⁰ National Programme for the Adoption of the EU *Acquis* 2014-2018, Government Decision 05 No. 337-1556/2013, originally adopted on 28 February 2013, revised with Government Decision 05 No. 337-8355/2014 on 31 July 2014 and with Government Decision 05 No. 337-10957/2016-2 on 17 November 2016.

During the past few years, Serbia has established a well-developed and ambitious strategic framework for PAR, with clear objectives and activities set out in a number of planning documents. The PAR Strategy²¹ and its Action Plan 2015-2017²² established objectives and priority actions for all the areas covered by the Principles of Public Administration. In addition, the Government of Serbia has adopted the PFMRP 2016-2020, as well as the Electronic Government Development Strategy 2015-2018 and Action Plan 2015-2016²³, thereby almost finalising the general approach envisaged in the umbrella PAR Strategy in which three sub-sectoral strategies (management of public finance, decentralisation and e-government) are prepared²⁴.

According to the PAR Action Plan²⁵, the work on the last strategic document, the Decentralisation Strategy, was expected to be finished by the end of the second quarter 2016, with the Action Plan elaborated until the end of the first quarter 2017²⁶.

In addition to these key PAR planning documents, additional planning documents develop various PAR areas in even further detail. These include: 1) the Public Procurement Development Strategy 2014-2018²⁷ and Action Plan for 2017²⁸; 2) the Strategy for Professional Development of Civil Servants²⁹; 3) the National Anti-Corruption Strategy 2013-2018 and its Action Plan³⁰; 4) the Action Plan for Implementation of the Open Government Partnership Initiative 2016-2017³¹; 5) the Regulatory Reform and Improved Public Policy Management Strategy 2016-2020 and Action Plan 2015-2017³²; and 6) the Action Plan for Minimising Administrative Burden 2016-2018³³.

Two of the key PAR planning documents were elaborated in close co-operation with civil-society organisations, but that was not the case for the PFMRP³⁴. Also, public consultations were held about

²¹ Public Administration Reform Strategy in the Republic of Serbia, Official Gazette No. 9/14 and 42/14-corr., adopted on 24 January 2014.

²² Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia 2015-2017, Official Gazette No. 31/15, adopted on 19 March 2015.

²³ Serbian Electronic Government Development Strategy 2015-2018 and the Action Plan for the Implementation of the Strategy 2015-2016, Government Decision 05 No. 021-13530/2015, adopted on 17 December 2015.

²⁴ Public Administration Reform Strategy in the Republic of Serbia, Official Gazette No. 9/14 and 42/14-corr., adopted on 24 January 2014. pp. 54-55.

²⁵ Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia 2015-2017, Actions 6 and 7 of measure 1.2.1, p. 7.

²⁶ According to information provided during interviews, both documents are still under preparation and are planned to be finalised by the end of 2017.

²⁷ Public Procurement Development Strategy in the Republic of Serbia 2014-2018 and Action Plan for Implementation of the Public Procurement Development Strategy for 2014-2015, Government Decision 05 No. 404-9896/2014-5, adopted on 30 October 2014.

²⁸ Action Plan for Implementation of the Public Procurement Development Strategy for 2017, Government Decision 05 No. 404-12569/2016, adopted on 29 December 2016.

²⁹ Strategy for Professional Development of Civil Servants in the Republic of Serbia, Official Gazette No. 56/11 and 51/13, originally adopted on 29 June 2011 and amended on 4 June 2013.

³⁰ The National Anti-corruption Strategy in the Republic of Serbia 2013-2018 (July 2013), Government Decision 05 No. 110-7203/2013, adopted on 25 August 2013; its Action Plan, Government Decision 05 No. 110-5960/2016, adopted on 30 June 2016.

³¹ Action Plan on Implementation of the Open Government Partnership Initiative in the Republic of Serbia in 2016 and 2017, Government Decision 05 No. 021-10793/2016, adopted on 17 November 2016.

³² Regulatory Reform and Improved Public Policy Management Strategy 2016-2020, Government Decision 05 No. 021-440/2016-1, adopted on 26 January 2016.

³³ Plan of Priority Actions for Reducing Administrative Burdens in the Republic of Serbia 2016-2018, Government Decision 05 No. 021-11839/2016, adopted on 15 December 2016.

³⁴ The Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia, 2015-2017, p. 43, explicitly describes the preparation process of the document, including the involvement of civil-society organisations. Also, the e-Government Directorate consulted on the draft Electronic Government Development Strategy and its Action Plan with key stakeholders, mainly representatives of the information-technology industry.

the draft documents before they were sent to the Government for adoption³⁵. The exception is the PFMRP, which was discussed only with international financial institutions and the international donor community.

The PAR planning documents have three shortcomings. First, there are no baseline values for the outcome-level indicators identified and no target values for the reform objectives. Without these, it is not possible to assess whether and how well the objectives compare to what was planned. Second is the limited cost estimation of the planned activities: 87% of the activities in the PAR Action Plan do have cost estimations, but only 53% of the actions in the PFM Strategy Action Plan and 55% of the actions in the Electronic Governance Development Strategy Action Plan are costed with information about additional funding requirements. Third is the relatively large share of non-reform-oriented activities contained in the action plans: on average in the three documents, only 69% of the activities are reform-oriented. That means that almost one-third of the total of 388 activities in these plans is oriented to process or day-to-day business, not reforms.

In light of these issues, the value for the indicator 'Quality of the strategic framework of public administration reform' is 3.

Quality of the strategic framework of public administration reform						
This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms.						
A separate indicator measures financial sustainability and cost estimates in detail.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Coverage and scope of PAR planning documents	5/5
2. Prioritisation of PAR in key horizontal planning documents	1/2
3. Coherence of PAR planning documents	2/4
4. Presence of minimum content of PAR planning documents	3/7
5. Reform orientation of PAR planning documents	1/3
6. Quality of consultations related to PAR planning documents	0/2
Total³⁶	12/23

The strategic framework for PAR has been established and covers the full scope of the Principles of Public Administration. However, the quality of planning is weak, especially at the level of operational planning. The major downside of the strategic framework of PAR in Serbia is the lack of outcome-level indicators and the current and target values that would allow for better assessment of the progress achieved through implementation of reform activities. Also, a large number of activities are not reform-oriented, and costing of the envisaged actions is not complete.

³⁵ The PAR Strategy was out for public consultation from 15 May until 15 June 2013, while the PAR Action Plan was out for public consultation from 10 to 15 September 2014. The Electronic Government Development Strategy and its Action Plan were formally put out for public consultation from 1 to 16 December 2014.

³⁶ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

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

In comparison with the 2015 assessment, it is now possible to assess progress achieved in implementation of the foreseen activities, since the reporting system has produced its first results, which are reviewed by the bodies responsible for overall co-ordination. The monitoring and reporting system is functioning, providing semi-annual and annual overviews of progress on implementation of the key PAR planning documents.

The PAR Action Plan contains a detailed description of the monitoring and reporting system³⁷, while the PFM RP and the Electronic Governance Development Strategy have more general descriptions of the monitoring and reporting mechanisms. In the absence of an overarching PAR reporting mechanism, decision makers and the public have to analyse separate reports about these strategies in order to get a general overview of the progress achieved on PAR as a whole.

Figure 1. Overview of implementation reports on key PAR planning documents

	PAR Strategy and Action Plan		Electronic Government Development Strategy and Action Plan		PFMRP	
	2015	2016	2015	2016	2015	2016
Semi-annual report	Yes	Yes	Not applicable	No	Not applicable	Yes
Annual report	2015	2016	2015	2016	2015	2016
	Yes	Yes	Not applicable	Yes	Not applicable	Yes

Source: the Ministry of Public Administration and Local Self Government and the Ministry of Finance.

The implementation reports for the PAR Action Plan and PFM RP are available on the websites of the responsible institutions³⁸. A negative aspect, however, is that only the implementation of the PAR Strategy and Action Plan involves civil-society organisations in the monitoring process. The other two documents do not envisage such involvement.

The major downside of the three implementation reports is that they focus only on the output level (i.e. monitoring whether or not activities have been implemented and outputs delivered). Although some outcome-level indicators are identified in all key PAR planning documents, they are not monitored or analysed³⁹. The lack of focus on achieved outcomes lowers the value of this indicator.

Since the PAR framework is relatively recent, it is understandable that only a small part of the foreseen objectives had been fully implemented. However, the implementation rate for the envisaged objectives suggests unrealistic planning: for the PAR Action Plan, only 2 of 13 objectives planned for 2016 had been fully implemented, while there are no fully implemented objectives for the other documents. Thus, out of 38 objectives indicated in these planning documents, only 2 had been implemented. Overall, the availability of outcome-level indicators and their values would allow for better evaluation of progress or regression within particular PAR areas. Policy makers and decision

³⁷ Annex 3 of the Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia 2015-2017, p. 68.

³⁸ MPALSG website: <http://www.mduls.gov.rs/english/reforma-javne-uprave.php> and MoF website: <http://www.mfin.gov.rs>.

³⁹ Although they are envisaged in key PAR planning documents, outcome-level indicators are not described in detail, except those mentioned in the PAR Action Plan.

makers do not have the full picture on PAR when they only have information on the number of implemented objectives and the outputs of activities.

The overall implementation rate of PAR-related activities is low, an average of only 34% for actions with 2016 deadlines in all three planning documents. Analysed separately, the implementation rates for the PAR Strategy and Action Plan, the PFMRP and the Action Plan for Electronic Governance Development Strategy are all below 40%.

Figure 2. Implementation rate of PAR-related actions

	PAR Strategy and Action Plan		Electronic Government Development Strategy and Action Plan		PFMRP	
	2015	2016	2015	2016	2015	2016
Implementation rate	17%	33%	58%	34%	Not applicable	37%

Source: Annual Reports on implementation of the key public administration reform planning documents and SIGMA's own calculations, based on the information provided in the annual implementation reports and original Action Plans.

In view of these factors, the value for the indicator 'Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting' is 1.

Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting						
This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Comprehensiveness of PAR reporting and monitoring systems	3/8
2. Implementation rate of PAR activities (%)	0/4
3. Fulfilment of PAR objectives (%)	0/4
Total⁴⁰	3/16

Monitoring and reporting systems for the key PAR planning documents are in place and being used. However, they currently focus only on monitoring implementation of activities against the set deadlines. The lack of analysis in terms of achievements against identified outcome-level indicators and targets does not allow decision makers or the wider public to judge whether the actions implemented have had an impact on the situation or have failed to lead to significant improvements.

Principle 3: The financial sustainability of public administration reform is ensured.

The key PAR planning documents provide some information about the additional funds needed for implementation, but there is no uniform or consistent approach across the documents. Also, the documents do not provide information on the total costs of activities, the funding already in place or the proportion of regular costs of implementation of certain activities compared to one-off or *ad hoc* costs.

⁴⁰ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

Figure 3. Costed activities in action plans of key PAR planning documents (%)

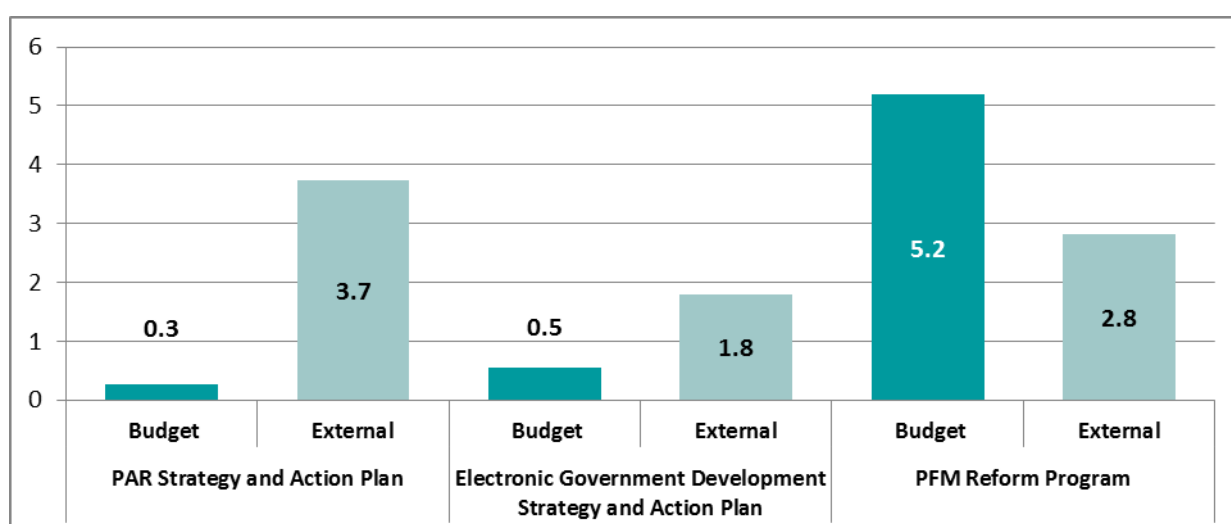
	PAR Strategy and Action Plan	Electronic Government Development Strategy and Action Plan	PFMRP
Percentage of costed activities in action plans	87	54	56

Source: Aggregated information from data provided in the Public Administration Reform Action Plan, the Public Financial Management Reform Program Action Plan and the Electronic Governance Development Strategy Action Plan.

The total financing foreseen in the key PAR planning documents indicates that 41.9% of the total calculated cost of RSD 14.3 billion (approximately EUR 115.6 million) comes from the national budget and the remaining 58.1% from foreign donor funds. Only the PFMRP plans for more funds from the national budget than from external sources. The PAR Strategy envisages 93% of external funding for implementation, and the Electronic Government Development Strategy envisages 77%.

Figure 4. Estimated costs for implementation of PAR-related actions in key PAR planning documents (billion RSD)

(Amount of additional funding needed by their possible source as indicated by planning documents)



Source: Aggregated information from data provided in the Public Administration Reform Action Plan, the Public Financial Management Reform Program Action Plan and the Electronic Governance Development Strategy Action Plan.

Analysing data on the five largest planned projects of the key planning documents reveals that financing for only four of the five can be identified in the Annual Budget for 2017. Differences between planned and actual funding for these activities, which range from 25% to 380%, indicate largely unrealistic planning.

The inclusion of the PAR sector in the MTEF 2016-2018 should be noted as an important positive development in terms of clarity about the financing of PAR. Prepared by the Ministry of Finance (MoF) in co-operation with the MPALSG, the Directorate for e-Government and the Public Policy Secretariat, this framework provides information on the PAR funding sources from different budget programmes and various donor organisations⁴¹. It also shows projections for the next two years, thus at least indicatively giving policy implementers information about the available funding envisaged. In terms of PAR financial sustainability, however, it is yet to be seen whether the inclusion of the PAR sector leads to enhancements.

⁴¹ Public administration reform Sector MTEF 2016-2018, Ch. 6, p. 23.

At the same time, information on PAR financing in the Annual Budget cannot be as easily identified, making it difficult to establish clear links with the financial information provided in the key PAR planning documents. It should be noted, however, that the Annual Budget also contains information on PAR financing within the budgets of the institutions involved in the implementation of PAR⁴².

As a result of the above issues, the value for the indicator 'Financial sustainability of PAR' is 1.

Financial sustainability of PAR						
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Costed PAR activities (%)	1/3
2. Completeness of financial information in PAR planning documents	1/4
3. Actual funding of the PAR agenda	0/3
Total⁴³	2/10

The financial sustainability of PAR remains questionable. Information on costings provided in the key PAR planning documents is fragmented, and the Annual Budget does not facilitate identifying the funding envisaged in these planning documents in all cases. Where the funding can be identified, there are major inconsistencies between planned funding and actual appropriations. Nevertheless, the recently developed PAR-sector MTEF 2016-2018 provides a good overview of PAR-sector financing in Serbia, including explanation of planned foreign financial assistance.

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

The overall responsibility for PAR management in Serbia is placed on the MPALSG, which is responsible for public administration affairs⁴⁴. According to the Rulebook on Internal Organisation of the MPALSG⁴⁵, the Group for Managing Public Administration Reform of the Sector for the Development of Good Governance is responsible for co-ordinating the implementation of the PAR Strategy at technical and policy levels. The Rulebook also states that the e-Government Directorate is responsible for "defining priorities of strategic and planning documents for development of e-government"⁴⁶ and its co-ordination, while the PFMRF foresees a leading role for the MoF in co-ordinating its implementation. In addition to overall PAR management and co-ordination, all three key PAR planning documents clearly attribute responsibilities for implementation of activities to both lead and participating institutions.

⁴² 2016 Annual Budget Article 8, p. 77, budget line "Public administration reform" under the MoF (allocating RSD 563.5 million) or budget line "Public administration reform" under the MPALSG (allocating just under RSD 10.9 billion (p. 88).

⁴³ Point conversion ranges: 0=0, 1-3=1, 4-5=2, 6-7=3, 8-9=4, 10=5.

⁴⁴ Law on Ministries of the Republic of Serbia and the Public Administration Reform Strategy in the Republic of Serbia 2015-2017, Article 10, p. 52.

⁴⁵ Rulebook on Internal Organisation and Job Classification of the Ministry of Public Administration and Local-Self Government of January 2016, Article 9.

⁴⁶ *Idem*, Article 39.

The monitoring, reporting and evaluation systems are described, with the PAR Action Plan⁴⁷, as being exemplary in respect of details and explanations of how the system works. A positive result can be seen in terms of the timeliness of preparation of reports on implementation of the PAR Strategy and Action Plan⁴⁸. On the other hand, the large number of indicators and the complex nature of the monitoring system envisaged is a matter for caution, as the implementation rate of the PAR Strategy remains low.

The key PAR planning documents clearly identify management and co-ordination structures at the political and administrative levels for monitoring the progress achieved, although in the case of the Electronic Government Development Strategy the description does not contain sufficient detail.

There is a unified approach for management and co-ordination of the PAR Strategy and Action Plan and the Electronic Government Development Strategy and its Action Plan. For both documents, the key political-level forum is the PAR Council (the PAR Strategy and Action Plan at the political level is also monitored and co-ordinated by the Board of State Secretaries), while at the administrative level there are interministerial working groups. Dedicated units within the MPALSG provide for day-to-day technical secretariat functions of these forums. The PFMRP and its Action Plan envisage a different model, as there is a special steering committee at the political level and an interministerial working group at the administrative level. There is no evidence to suggest that the two political-level structures would work in a co-ordinated manner.

All these management and co-ordination bodies consist of representatives of the institutions involved in implementation of the key PAR planning documents. The PAR Council, due to its broad composition of involved ministers, provides for overall co-ordination of PAR in Serbia by taking necessary decisions on a wide range of issues. It must be noted, however, that the PAR Council is not functioning as it should be. In addition to a lack of effective political-level PAR co-ordination, the structure of the co-ordination mechanism is overly complicated. This is attributable to the Board of the State Secretaries being responsible for co-ordinating implementation of the PAR Strategy and Action Plan and largely serving as an additional preparatory forum before the PAR Council meetings. Thus, the Board is duplicating some of the work done by both the PAR Council and the Interministerial Working Group, serving as a “middle-man” or “post office” between the two. The administrative-level working groups include representatives of the institutions involved in the implementation of the key PAR planning documents.

The approach to involvement of civil-society representatives in the monitoring process differs from one strategic document to another. There are 12 representatives from 6 organisations involved in the work of interministerial working groups of the PAR Strategy, while none are involved for implementation of the PFMRP. One of the sub-groups of the interministerial working groups for Electronic Government (the one on open data) involves civil-society representatives, but the working group overseeing the whole area does not.

⁴⁷ Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia 2015-2017, Annex 3, p. 68.

⁴⁸ Annual Report for 2016 on Implementation of the Action Plan of the Public Administration Reform Strategy in the Republic of Serbia 2015-2017, p. 4.

Figure 5. Frequency of meetings of PAR co-ordination bodies

Level / Strategy	PAR Strategy and Action Plan		Electronic Government Development Strategy and Action Plan		PFMRP	
	2015	2016	2015	2016	2015	2016
Number of political-level meetings	3	1	3	1	Not applicable as PFMRP adopted in November 2015	0 ⁴⁹
	2015	2016	2015	2016	2015	2016
Number of administrative-level meetings (interministerial working group)	3	1	Not applicable as group established only in May 2016	3	Not applicable as PFMRP adopted in November 2015	0

Source: the Ministry of Public Administration and Local Self Government.

Despite existing on paper and compared with their functioning in 2015, all of these management and co-ordination structures worked episodically in 2016. This was partially due to the stalemate created by the general elections in April 2016, preparations for them and the subsequent formation of the new Government. While this may explain some passivity at the political level, it does not do so for the administrative level, where the complexity and internal duplications of the co-ordination structure are another important factor. Furthermore, there is no evidence that the PFMRP co-ordination bodies met during 2016.

As a result of the above issues, the value for the indicator ‘Accountability and co-ordination of PAR’ is 2.

Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, and the regularity and quality of co-ordination mechanisms at both the political and administrative levels, and the performance of the leading institution.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Establishment of organisational and managerial accountability for PAR	6/6
2. Co-ordination mechanisms for PAR	2/10
Total⁵⁰	8/16

Formal co-ordination mechanisms are established for PAR in Serbia at both political and administrative levels, but effectiveness of these is not ensured with the current multiple levels of co-

⁴⁹ According to the Annual Report on Implementation of the PFMRP 2016-2020 for the period from December 2015 to December 2016 (information on p. 11), there was at least one meeting of the administrative-level working group and of the steering committee. However, the MoF provided no evidence on this or any other meeting of the steering committee or the working group, or on the agenda or decisions of these co-ordination bodies related to implementation of the PFMRP.

⁵⁰ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

ordination. These co-ordination bodies at both levels meet sporadically, with no particular frequency, and meetings of these co-ordination mechanisms almost entirely ceased in 2016. Organisational and managerial accountability for particular PAR activities is clearly established. Responsibilities for general co-ordination and monitoring of PAR are clearly identified, while action plans identify lead and partner institutions responsible for implementation of particular activities.

Key recommendations

Short-term (1-2 years)

- 1) During revisions of the key PAR-related strategic documents, the MPALSG and the MoF, with the involvement of non-governmental organisations, should ensure that the plans are more reform-oriented, with clearly defined and comprehensively and realistically costed activities, supported by outcome-level indicators for the strategic objectives of PAR.
- 2) The Government should ensure better implementation of the envisaged PAR-related activities, and the MPALSG and the MoF should ensure that the monitoring system is fully developed and utilised and that views of the civil society are also taken into account during monitoring and evaluation of PAR implementation.

Medium-term (3-5 years)

- 3) The Government should better utilise the PAR management and co-ordination structures at both political and administrative levels to ensure timely and effective implementation of the PAR agenda.
- 4) The MPALSG should streamline the co-ordination structure of the PAR Strategy by eliminating the Board of the State Secretaries in co-ordinating implementation of the PAR Strategy and Action Plan or by merging it with the interministerial working group structure.

2

Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

In Serbia, most of the functions critical for a well-organised policy-making system, including the key functions of European integration (EI), have been established, except for the co-ordination of the actual content of policy proposals, which is not in place for all policy development. While annual planning of the work of the Government is well-developed from the process perspective, it is not always realistic. Strategic planning is in a rudimentary phase, EI planning does not provide ample information about the costs of the integration-related activities and both planning and reporting are delayed in practice. The co-ordination of EI at the political and administrative levels was not functional in 2016.

There are serious shortcomings in the public availability of information about the implementation of various plans (including strategies), as well as with the legislative process, as the majority of draft laws submitted by the Government are adopted through an urgent procedure. While the basic framework for evidence-based policy development is in place, deficiencies are seen in the internal procedural regulation of policy development in ministries and the proper application of tools for evidence-based policy making and comprehensive public consultation.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement⁵¹ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

Overall, in Serbia there has been no major positive change in the area of policy development and co-ordination. The major challenges identified in the 2015 Baseline Measurement Report⁵² still exist, and there was identifiable deterioration in the development and public availability of monitoring reports about the work of the Government. The Government has adopted the Regulatory Reform and Improved Public Policy Management Strategy for 2016-2020⁵³ to enhance policy planning and development, but implementation of this Strategy has not yet produced any substantial change in the system.

In 2015, as a pilot project, the Public Policy Secretariat of the Republic of Serbia (PPS) developed and published on its website a list of 161 Government priority objectives⁵⁴. In November 2016, the PPS developed an Action Plan for Implementation of the Government Programme (APIGP). The APIGP was developed using a top-down approach. The APIGP divides the priorities identified in the Government Programme into four areas, and accordingly, four ministerial groups have been set up: 1) EU integration of the Republic of Serbia; 2) Creation of economic opportunities for all; 3) Better public

⁵¹ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

⁵² OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, pp. 16-38, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁵³ Regulatory Reform and Improved Public Policy Management Strategy 2016-2020, Government Decision 05 No. 021-440/2016-1, adopted on 26 January 2016.

⁵⁴ The list of Government priority objectives is available at: <http://vs3836.cloudhosting.rs/prioritetni-ciljevi-vlade-srbije-utvrdjeni-akcionim-planom-za-sporvodjenje-programa-vlade>.

service delivery; and 4) Protection of human rights and security. Neither the APIGP nor its reports are publicly available.

After opening accession negotiations with the European Union (EU) in January 2014, in August 2015 the Government completed the negotiation structure by adopting a decision that established the Negotiating Team for accession of the Republic of Serbia to the EU⁵⁵. On 26 June 2017, the National Assembly adopted amendments to the Law on Ministries⁵⁶ establishing the Ministry of European Integration (MEI) and abolishing the Serbian European Integration Office (SEIO).

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

The developments and progress made during the last two years are insufficient to have made a positive impact on the indicator value. The key shortcoming related to the critical functions of the centre of government (CoG), as well as the limited mandate to ensure the overall quality of government decisions and their alignment with Government priorities has not been addressed. The need to strengthen the role of the PPS for policy scrutiny of Government proposals, as recommended in the Baseline Measurement Report⁵⁷, remains unfulfilled.

The EI negotiation co-ordination structure was completed in August 2015, and Serbia has opened 10 of the 35 accession Negotiation Chapters and has provisionally closed 2. As the negotiation structures have started to function, the value of the indicator on the fulfilment of the EI functions is set at 5.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁵⁸

	Principle no.	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	1	Proportion of critical CoG functions that are fulfilled by the institutions.	4	4
	2	EI functions are fulfilled by the institutions.	4	5

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

Since 2015, Serbia had a long period of preparation for early elections and formation of the new Government. Although there were no changes in the political composition, the period without a functioning political decision-making body had a substantial impact on the work of the administration and implementation of the Government's plans.

The PPS has developed a draft law and secondary legislation on the system of planning, which have not yet been adopted. In addition, a multi-annual Action Plan (the APIGP) has been prepared and adopted by the Government⁵⁹, but its relationship to and impact on the other planning documents have not been clarified, and its development did not substantially affect how the government annual work plan

⁵⁵ Government Decision on Establishing the Negotiating Team for the Accession of the Republic of Serbia to the European Union, August 2015.

⁵⁶ Law on Ministries, Official Gazette No. 62/2017.

⁵⁷ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p. 20, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁵⁸ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁵⁹ The Action Plan for Implementation of the Government Programme, November 2016.

(GAWP) is prepared. Thus, the recommendations regarding the reinforcement of the medium-term planning, including development of sector strategies and streamlining the GAWP, were not comprehensively addressed⁶⁰.

Although costing of EI-related activities is required by regulation⁶¹ and was recommended in the 2015 Baseline Measurement Report⁶², it has not been introduced.

The monitoring and reporting of the central planning documents and sector strategies did not improve, and their public availability further deteriorated, as neither the GAWP report nor the National Program for the Adoption of the *Acquis* (NPAA) report is available for 2016.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Completeness of financial estimates in sector strategies ⁶³ .	1	1
	Extent to which reporting provides information on the outcomes achieved.	3	1
Quantitative	Annual implementation backlog of planned commitments in the central planning document(s).	49%	55%
	Annual backlog in developing sectoral strategies.	31%	37%
	Ratio between total funds estimated in the sectoral strategies and total funding identified for corresponding sectors within the MTBF ⁶⁴ .	0%	0%
	Annual implementation backlog of EI-related commitments.	32%	24%

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.

There has not been significant progress since 2015 in the transparency and quality assurance procedures for Government decision making. Most recommendations provided in the Baseline Measurement Report remain valid, especially that “the rules of procedure (RoP) should be amended to clarify the timeframe for the process of preparation of proposals for deliberation by the Government”, that “all proposals should be comprehensively scrutinised from the perspective of affordability and

⁶⁰ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p. 25, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁶¹ Instructions for collecting data on the financial aspects of the implementation of the "National Program for the Adoption of the *Acquis*", adopted with the Government Conclusion on the Second Revision of the National Program for the Adoption of the *Acquis*, October 2015.

⁶² OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p. 25, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁶³ A sample of five recently adopted sector strategies is used.

⁶⁴ The ratio is calculated as a percentage (0% being the minimum and 100% the maximum), illustrating the differences in planned funding in the last five strategies adopted and the medium-term budgetary framework (MTBF). The outcome value of the indicator is the average of the five cases. If it is not possible to make the calculation due to a lack of financial data in the MTBF and/or in all of some sector strategies, the ratio is determined to be 0%.

policy alignment”, and that “agendas of formal Government sessions should be made public in advance”⁶⁵.

There is progress in the timeliness of adoption of laws by the National Assembly, but this is offset by an excessive rate of laws adopted through urgent procedures. Moreover, the Assembly’s engagement in scrutiny and evaluation of the implementation of laws and policies has decreased. Three such reports were discussed in 2013, versus none in 2016.

Table 3. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Quantitative	Ratio of regular agenda items submitted on time ⁶⁶ by ministries to the government session.	Not available ⁶⁷	Not available
	Ratio of laws initiated by the government and approved by the parliament no later than one year after submission. (%)	89	99
	Number of law implementation reports discussed in the parliament.	3	0

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

Overall, Serbia had limited progress under this key requirement. This is reflected in the unchanged indicator values based on the 2015 assessment methodology.

The Government did not address any of the four short-term recommendations from the Baseline Measurement Report⁶⁸. Line ministries have not developed internal rules, transposition costing has not improved, high-level civil servants remain uninvolved in the process of resolving conflicts before the political level has to address issues and Regulatory Impact Assessments (RIAs) are not submitted to the Parliament.

The Government did not start preparing for the implementation of two of the four medium-term recommendations. No progress was made to assess how the process for consolidating legislation could be routinely applied. Nor has progress been made towards the recommendation that line ministries improve the quality of costing for EI proposals.

Nevertheless, preparations have been made for implementing two other medium-term recommendations. The Government is considering broadening its approach to consultation with external stakeholders and further integrating consultation into the development process. The Government has also started preparations for improving the RIA system and the policy-development system in general⁶⁹.

⁶⁵ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, pp. 28-29, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁶⁶ “On time” is understood as within the procedural criteria set by regulation(s).

⁶⁷ No information was provided for the analysis; this information is not collected in a systematic way, and there are no set deadlines for submitting proposals before Government sessions.

⁶⁸ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, pp. 37-38, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁶⁹ Regulatory Reform and Improved Public Policy Management Strategy, 2016-2020; the draft Law on the Planning System provides the basis.

Table 4. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which ministries are oriented towards policy development.	3	3
	Extent to which the policy development process makes the best use of analytical tools.	3	3
	Extent to which public consultation is used in developing policies and legislation.	3	3
	Extent to which the interministerial consultation process occurs.	2	2
	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	4	4

2. ANALYSIS

Policy planning and co-ordination

This analysis covers 12 Principles for the policy development and co-ordination area grouped under 4 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators⁷⁰, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

In Serbia, the key responsibilities and functions of the CoG institutions are stated in a set of legal acts: the Law on Government⁷¹, the Law on Ministries⁷², the RoP of the Government⁷³ and various Government decrees. The critical functions of the CoG⁷⁴ are assigned to five institutions: 1) the General Secretariat of the Government (GSG), in charge of the management of Government sessions, preparation of the GAWP, co-ordination of government communication activities and management of relations with other state bodies; 2) the PPS, mandated to co-ordinate the preparation of the Government Priorities; to co-ordinate the preparation, review and monitoring of the APIGP; and to review the quality of strategies, the Fiscal Strategy and draft laws and regulations; 3) the Republic Secretariat for Legislation (RSL), ensuring legal conformity of draft legal acts; 4) the Ministry of Finance (MoF) of the Republic of Serbia, ensuring that policies are affordable and that public sector financial

⁷⁰ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁷¹ The Law on Government of the Republic of Serbia, Official Gazette No. 44/2014.

⁷² The Law on Ministries, Official Gazette No. 62/2017.

⁷³ The RoP of the Government, Official Gazette No. 76/14.

⁷⁴ For the list of the critical CoG functions see: OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 19.

resources are well-planned); and 5) the Serbian European Integration Office (SEIO), which on 26 June 2017 became the Ministry of European Integration (MEI)⁷⁵, responsible for co-ordination of EI matters. Monitoring of government performance is shared between the GSG and the PPS⁷⁶. The mandate to ensure that decisions are of high quality and in line with Government priorities is only partially ensured⁷⁷.

In the area of the GAWP preparation, government performance reports and public hearing⁷⁸, the RoP set the basic requirements⁷⁹. In addition, detailed guidelines are available for the GAWP preparation⁸⁰, for the drafting and review of legal acts⁸¹ and participation of civil society organisations in the regulatory process⁸². However, methodologies and detailed instructions are not in place for medium-term planning, preparation of government priorities and the APIGP, or for conducting public hearings. Furthermore, neither key procedures nor more detailed guidelines are available for the development of strategies or policy proposals (except for preparation of an RIA, which applies only to new draft laws)⁸³.

There is no co-ordination of policy planning and policy development among CoG institutions. Interviews with representatives of the main CoG institutions confirm that they submit their opinions on draft decisions individually without prior discussion with each other. In case of the GAWP, the GSG receives comments from other CoG institutions; however, they are forwarded to line ministries without consolidating views and positions.

In light of the gaps in providing guidelines to ministries and the lack of systematic co-ordination among key CoG bodies, the value for the indicator 'Fulfilment of critical functions by the centre-of-government institutions' is 2.

⁷⁵ The Serbian European Integration Office (SEIO) became the Ministry of European Integration (MEI) on 26 June 2017; hereafter in this chapter, in compliance with the name of the institution, "MEI" rather than "SEIO" is used unless SEIO is part of the title of a publication or law.

⁷⁶ According to Articles 78 and 79 of the RoP of the Government, the GSG, in co-operation with the MoF and the RSL, is in charge of compiling the annual report of the government activities, based on the implementation of the GAWP. Article 79a of the RoP mandates the PPS to monitor and report on implementation of the APIGP in terms of the realisation of the priority objectives of the Government.

⁷⁷ The Law on Government and the RoP regulate the mandate of the PPS with regard to scrutinising RIAs for draft law and strategic policy proposals, an important step in ensuring the quality of policy proposals. The legislation fell short of giving a full and comprehensive mandate to the PPS for analysing the policy content of all documents, but the Rulebook on Internal Organisation and Systematisation of the PPS (17 November 2014) widens the mandate so that the PPS performs its scrutiny task more comprehensively.

⁷⁸ In Article 41 of the RoP of the Government, "public consultation" is called "public hearing" and is required for new laws and amendments to draft laws, which will likely see significant changes.

⁷⁹ RoP of the Government, Articles 41 and 42, pp. 76-79.

⁸⁰ Decision of the Secretary General of the Government on the preparation of the GAWP for 2017, November 2016.

⁸¹ Unified Drafting Methodology Rules, Official Gazette No. 21/2010; Conclusion and Methodology for Making By-laws No. 011-7473/2010.

⁸² Government Decision on the Guidelines for the inclusion of civil society organisations in decision-making process, August 2014.

⁸³ The PPS does provide guidance and advice on the development of strategies.

Fulfilment of critical functions by the centre-of-government institutions

This indicator measures to what extent the minimum requirements for functions critical to a well-organised, consistent and competent policy-making system are fulfilled by the CoG institutions.

As this indicator is used to assess the fulfilment of the minimum requirements, it does not measure outcomes or include quantitative sub-indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Critical functions are assigned to CoG institutions by legislation	7/8
2. Availability of guidelines to line ministries and other government bodies	2/4
3. Institutionalisation of co-ordination arrangements between the CoG institutions	0/4
Total⁸⁴	9/16

The legal grounds for performing the critical CoG functions have been set in primary and secondary legislation. However, the mandate to ensure the overall quality of government decisions and their alignment with Government priorities is limited to strategies and draft legislation. Provision of written guidelines is not fully ensured. Systematic co-ordination among key CoG bodies is not in place.

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

Six key functions relate to EI: 1) overall daily co-ordination; 2) the planning of EI, including the costing of reforms; 3) monitoring of preparations for the EI process; 4) co-ordination of the transposition of the EU *acquis*; 5) co-ordination of EU assistance; and 6) co-ordination of EI-related negotiations. Overall, the responsibilities for these functions are defined within the secondary legislation on the MEI⁸⁵, which is positioned to fulfil all of them. In addition, the Law on Ministries defines the overall responsibility for all ministries for harmonisation of laws with the *acquis* and participation in the preparation of negotiation positions⁸⁶. Furthermore, according to the RoP of the Government⁸⁷, the ministries must obtain the opinion of the MEI for all draft strategies, as well as the draft laws and regulations that transpose the *acquis*.

The MEI co-ordinates the EI process through a number of guidelines and instructions on alignment of national legislation with the *acquis*⁸⁸, translation of the *acquis*⁸⁹, planning and monitoring of EU

⁸⁴ Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-12=3, 13-14=4, 15-16=5.

⁸⁵ Government Decree on the Establishment of the SEIO, Official Gazette No. 106/2012; Rulebook on Internal Organisation and Job Classification of the SEIO of May 2015.

⁸⁶ Law on Ministries, June 2017, Article 19.

⁸⁷ The RoP of the Government, Official Gazette No. 76/14, Article 46.

⁸⁸ Government Conclusions for the Adoption and Amendment of the Instruction for Filling the Table of Concordance and Instruction for Completion of the Statement of Conformity with EU Regulations, Official Gazette Nos. 34/10, 51/13 and 86/16.

⁸⁹ Government Conclusion on the Adoption of the Manual for Translation of Legal Acts of the European Union, 05 No. 337-3959/2016-1 of 27 April 2016; Government Conclusion on accepting the Information on the preparation of the *acquis* in Serbian language 05 No. 011-2144/2009; Government Conclusion on accepting the Information on the establishment of the Working group for the verification of the translation of the secondary legislation of the EU 05 No. 02-4092/2009; Government Conclusion on accepting the Information on the adoption of the criteria for the appointment of the co-ordinators for technical revision and technical revisers 05 No. 011-2114/2009-1; Government

assistance⁹⁰, and participation and providing input to EI-related negotiations⁹¹. The EI planning, monitoring and reporting process is also supported by an electronic database system. The process of revising the NPAA, as well as the frequency of its monitoring, is regulated through a separate Government decision⁹². This decision provided for implementation of the revised NPAA from January 2016, but there was a significant delay in the revision process, and the revised NPAA was adopted in November 2016⁹³. The delay was mainly due to the long preparation time for early elections in 2016 and formation of the new Government. Although the prescribed frequency is quarterly, the MEI prepares monthly reports on the EI process for the Government. In addition, in 2016, the Negotiating Team prepared a biannual report on Serbia's accession to the EU, which the Government submitted to the National Assembly⁹⁴. Despite monthly and biannual reporting on the EI negotiations and the wider EI process, there is no regular progress monitoring of the NPAA itself.

The political-level interministerial co-ordination forum for EI matters is the Coordination Body for the Process of the Accession of The Republic of Serbia to the European Union (Co-ordination Body)⁹⁵, while the administrative-level, the co-ordination forum is the Coordination Body Council (the Council). A separate negotiation structure was established in 2013, and revised and completed in 2015⁹⁶, as the Government established the Negotiating Team and the Co-ordination Body established 35 Negotiating Groups⁹⁷. In 2016, EI co-ordination was not functioning at the political and administrative levels, as no meetings of the Co-ordination Body or the Council were held to discuss EI matters. However, the Negotiating Team held 11 meetings in 2016, and the Negotiating Groups also met regularly. While the shift of focus to negotiation-related issues is understandable, the lack of horizontal and wider EI co-ordination is a shortcoming.

As Serbia has detailed regulation and guidelines related to all established EI functions and the MEI is able to plan and monitor the EI process, as well as to provide opinions on EI-related policy proposals, but since EI co-ordination was not functioning as requested, the value for the indicator 'Fulfilment of

Conclusion on accepting the Information on the establishment of the Working group for the verification of the translation of the primary legislation of the EU 05 No. 02-2147/2012; and Government Decision on the establishment of the Working Group for technical revision of the translation of the *acquis* 05 No. 02-4092/2013.

⁹⁰ Plan for Preparation of Instrument for Pre-accession Assistance (IPA) 2016 Action Programme, SEIO, May 2015.

⁹¹ Government Conclusion on Guidance and Coordination of the Activities of the State Administration Bodies in the Procedure of Preparing the Negotiating Positions in the Process of Negotiations on the Accession of the Republic of Serbia to the European Union, August 2015 and Government Conclusion on Guidance and Coordination of the Activities of the State Administration Bodies in the Process of Implementation of Analytical Review and Assessment of Harmonisation of Regulations of the Republic of Serbia with *Acquis Communautaire* of the European Union and their Implementation (Screening) Sept 2013, revised in August 2015.

⁹² Government Decision on the Second Revision of the NPAA, October 2015. The only aspect not explicitly regulated in this decision is the frequency of revision of the NPAA. The initial NPAA had charged the MEI "with the obligation to propose annual amendments to this Document", Government Conclusion No. 337-1556/2013 of 28 February 2013, p. 4.

⁹³ Government Decision 05 No. 337-10957/2016-2 of 17 November 2016.

⁹⁴ Report on Negotiations on Accession of the Republic of Serbia during the Presidency of the Kingdom of the Netherlands, January-June 2016. According to Article 4 of the Government Decision on Establishing the Negotiating Team for the Accession of the Republic of Serbia to the European Union (August 2015), the Negotiating Team has to prepare and submit to the Government reports on the status of negotiations after each meeting of the Intergovernmental Conference between the Republic of Serbia and the EU, as well as special reports, if the Government so requests.

⁹⁵ Government Decision on the Establishment of the Co-ordination Body for the Process of the Accession of the Republic of Serbia to the European Union, September 2013.

⁹⁶ Government Decision on Establishing the Negotiating Team for the Accession of the Republic of Serbia to the European Union, September 2013, revised in August 2015.

⁹⁷ The Negotiating Team is in charge of drawing up negotiating positions and participating in the negotiations. The Negotiating Groups are in charge of analytical review of legislation (screening), drafting negotiation-position proposals; drawing up, revising and monitoring the implementation of the NPAA; and drafting proposals for planning communication activities for appropriate chapters of negotiation.

the European integration functions by the centre-of-government' is 4. Nevertheless, though regular reporting on EI is provided, the lack of systematically available reporting on the NPAA itself is a shortcoming.

Fulfilment of European integration functions by the centre-of-government institutions

This indicator measures to what extent the minimum criteria for EI functions are fulfilled by the CoG institutions.

As this indicator is used to assess the fulfilment of the minimum criteria, it does not measure outcomes or include quantitative indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.

Overall indicator value	0	1	2	3	4	5
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Sub-indicators	Points
1. Proportion of the EI functions that are assigned to the CoG institutions by law	6/6
2. Availability of guidelines to line ministries and other government bodies	4/4
3. Government's capacity for co-ordination of EI	6/8
Total⁹⁸	16/18

The MEI is charged with the key EI co-ordination functions. Detailed regulation and guidelines are available for all EI affairs. The EI co-ordination structures are in place, including accession negotiation structures at political and administrative levels. Although the Negotiation Team and Groups met regularly in 2016, no meetings were organised for horizontal EI co-ordination structures. The planning and monitoring of EI is ensured, but the revision and monitoring of the NPAA suffered a serious delay in 2016 due to the long elections process.

Key recommendations

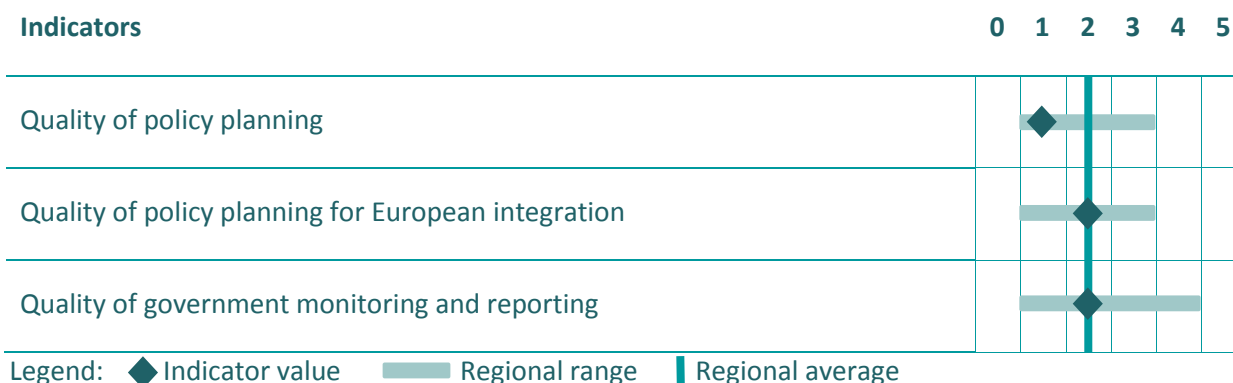
Short-term (1-2 years)

- 1) The PPS, in partnership with the MoF, Ministry of Public Administration and Local Self-Government (MPALSG), and the GSG, should commit the necessary resources to hasten the finalisation and adoption of the guidelines for strategy and public policy development.
- 2) The Government should amend the RoP of the Government, the Law on Ministries and other relevant regulations to ensure that the PPS is entrusted with the responsibility to review the content of all policy drafts and their alignment with Government priorities.
- 3) The Government of Serbia should ensure regular discussion of EU integration issues (with timely reporting on the implementation of the NPAA) through regular meetings of the Co-ordination Body or the Co-ordination Body Council, and those discussions should lead to the timely revision of the NPAA.
- 4) A formal co-ordination mechanism should be established among the key CoG institutions to ensure unified opinions on drafts submitted by proposing institutions, as well as harmonised responses to proposals for items submitted for inclusion in the GAWP.

⁹⁸ Point conversion ranges: 0-2 = 0, 3-5 = 1, 6-9 = 2, 10-13 = 3, 14-16 = 4, 17-18 = 5.

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

Principle 3: Harmonised medium-term policy planning is in place, with clear whole-of-government objectives, 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.

The policy planning system in Serbia comprises central government planning documents and sector strategies, including the Prime Minister's exposé (Government Programme)⁹⁹, the APIGP, the GAWP, the NPAA¹⁰⁰, the Fiscal Strategy¹⁰¹ and some 90 valid sector strategies¹⁰².

Overall, there is no legal framework or mechanism to establish a coherent and harmonised policy-planning system aligned with the budgetary constraints. While there are regulations governing the preparation, adoption, and reporting of the APIGP and the GAWP¹⁰³, they fail to establish the relationships between these documents, the annual budget and the medium-term Fiscal Strategy, or their impact on other planning documents, especially sector strategies and individual policy proposals. There is also no regulation defining the requirements for the form, content, development and monitoring process for strategies.

The government-level policy planning functions are clearly assigned to several institutions: the GSG¹⁰⁴, the PPS¹⁰⁵, and the MEI¹⁰⁶. As a rule, these institutions provide written instructions, guidance and comments or advice to line ministries through meetings during development of the planning documents of which they are in charge. Guidance for the preparation of GAWP and its report, as well

⁹⁹ Exposé of the Prime Minister of the Republic of Serbia, Aleksandar Vučić of 9 August 2016.

¹⁰⁰ The National Programme for the Adoption of the EU *Acquis* 2014-2018, November 2016.

¹⁰¹ The Fiscal Strategy for 2017, with projections for 2018 and 2019.

¹⁰² The list of valid strategies is available at <http://www.gs.gov.rs/english/strategije-vs.html>. Separate programmes and action plans also exist and are part of policy planning.

¹⁰³ Articles 76, 77 and 79a of the RoP of the Government and the Instruction of the Secretary General of the GSG for the elaboration of the GAWP for 2017, November 2016.

¹⁰⁴ According to the RoP of the Government, Articles 76 and 77, the GSG co-ordinates preparation of the GAWP and its annual report.

¹⁰⁵ According to the RoP of the Government, Article 79a, the PPS co-ordinates the preparation of the Action Plan for the implementation of the Government programme and reviews sector strategies.

¹⁰⁶ According to the Law on Ministries, the MEI co-ordinates the preparation of the EI planning document, the NPAA.

as for the development of the Fiscal Strategy, are provided through written instructions¹⁰⁷. However, the CoG institutions are not mandated to, and do not, review and challenge the inputs received from ministries for the GAWP or the NPAA. Since the APIGP and the Fiscal Strategy are developed in a more top-down and centralised manner than the GAWP or the NPAA, stronger CoG control can be seen in the development of these planning documents. Even without unified rules for strategy development, the PPS guides the preparation of sector strategies through consultations and the application of a draft manual it developed to assist in elaborating more unified strategic policy proposals. In addition, the review of the latest strategies adopted by the Government in 2016¹⁰⁸ confirms that the PPS provides written opinions when draft strategies are submitted for approval¹⁰⁹. In 2016, the PPS also organised training sessions for public administration bodies on the development of strategic documents. However, this training is occasional and not fully embedded in the training activities provided by the Human Resource Management Service, which is responsible for training civil servants.

The alignment between central planning documents is weak. The priorities expressed in the APIGP and the Fiscal Strategy are not coherent. Of the 12 structural reform areas foreseen in the Fiscal Strategy, at least 2 (defence and agriculture) are not among the 32 priority objectives of the APIGP. Of these priorities, at least 5 (education, science, the fight against crime, courts, and demographics) are not reflected in the Fiscal Strategy. While the Fiscal Strategy does not include outcome-level indicators for measuring the achievement of the Government's priorities, the APIGP does for three-quarters of its objectives. In addition, the GAWP is also not consistent with the analysed sector strategies, as 5 of 23 laws listed in the strategies for adoption in 2017 did not appear in the GAWP for 2017.

At roughly 870 pages, the GAWP for 2017 includes legislative activities, as well as programmes and projects, the latter with financial estimates. The GAWP is not a realistic planning document, as demonstrated by a backlog of 55% for legislative commitments and 37% for strategy development commitments. These figures have not improved systematically since 2014. In 2014, the legislative backlog was 49% and the backlog on strategy development was 30%. In 2015, the legislative backlog dropped to 34%, while the backlog on strategy development increased slightly, to 32%.¹¹⁰

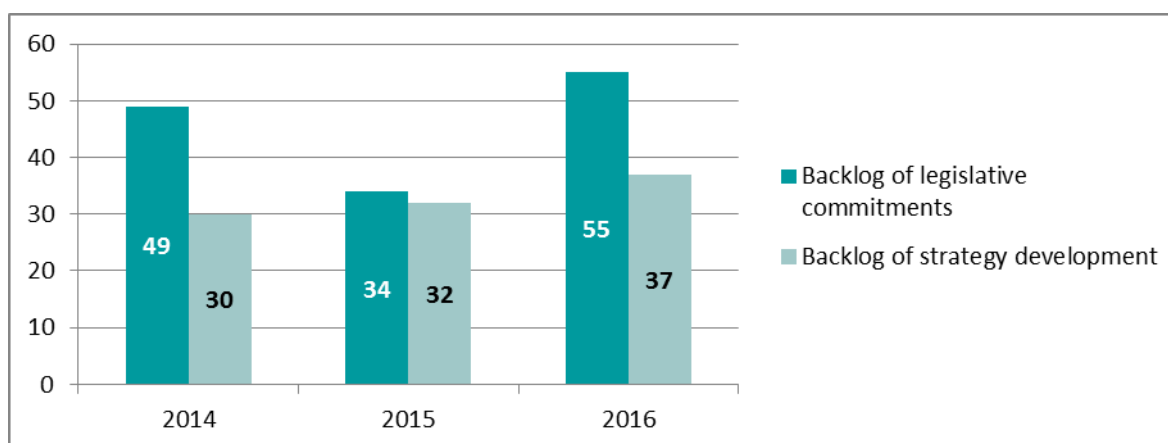
¹⁰⁷ Instruction of the Secretary General of the Government "On the preparation of the Annual Government Work Plan for 2017", November 2016; Instruction of the Secretary General of the Government "On the preparation of the Annual Government Work Plan report for 2016", January 2017 and Instruction of the Ministry of Finance for Proposals for Priority Areas of Funding for the Period 2017-2019.

¹⁰⁸ The five analysed strategies are: 1) the National Strategy for the Improvement of Facilities for Operating with Food of Animal Origin 2016-2021; 2) the Strategy for Water Management Until 2034; 3) the Tourism Development Strategy 2016-2025; 4) the Trade Development Strategy Until 2020; and 5) the Strategy for Science and Technological Development 2016-2020.

¹⁰⁹ In total in 2016, the PPS issued opinions for 16 proposed strategies, 14 action plans, 1 plan and 2 proposed programmes. Information provided by the PPS.

¹¹⁰ For detailed comparative figures on backlogs: OECD (2017), *Functioning of the Centres of Government in the Western Balkans*, SIGMA Paper No. 53, OECD Publishing, Paris, pp. 29 and 33, <http://dx.doi.org/10.1787/2bad1e9c-en>.

Figure 1. Backlog of legislative and strategy development commitments 2014-2016 (%)



Source: SIGMA calculations based on information provided by the Ministry of European Integration.

While formal requirements for financial estimates exist (generally through a recent MoF by-law¹¹¹), analysis of the five last sectoral strategies adopted by the Government in 2016 shows that the costing of strategies is not properly in place, as only two of the five strategies include information about the expenditure needed for their implementation. Consistency of strategies with the medium-term budgetary framework (MTBF) is also hampered because the Fiscal Strategy does not include financial projections at the sector strategy or programme levels.

Given the gaps in the regulation for a harmonised planning system also covering sector strategy development, the shortcomings in ensuring proper alignment between key central planning documents, weak costing practice the lack of alignment of sector strategies with the medium-term budget and large backlogs in the implementation of the GAWP, the value for the indicator 'Quality of policy planning' is 1.

¹¹¹ On the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget, No. 110-00-171/2015-03 of March 2015. The by-law and its corresponding instruction give a comprehensive regulatory framework for financial estimations of all new policy proposals.

Quality of policy planning						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the legal framework for policy planning	3/7
2. Availability of guidance to line ministries during the policy-planning process	4/4
3. Alignment between central policy-planning documents	1/6
4. Planned commitments carried forward in the legislative plan of the government (%)	0/4
5. Planned sectoral strategies carried forward (%)	2/4
6. Completeness of financial estimates in sector strategies	1/5
7. Alignment between planned costs in sector policy plans and medium-term budget (%)	0/3
Total¹¹²	11/33

The regulatory framework governing policy planning is not sufficient to establish a coherent and harmonised policy-planning system aligned with the budgetary limits of the country. Although guidance during policy planning is available to line ministries, the work of the CoG fails to produce realistic plans, as demonstrated by substantial backlogs. There are no set rules for development of sector strategies, and the practice of costing them is sporadic. There are no clear links between sector strategies and the medium-term budget.

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

The status of the key EI plan, the NPAA, is established by law¹¹³ and the development process and details of harmonised medium-term EI planning are regulated¹¹⁴. The MEI has established a medium-term planning and monitoring system for Serbia's EI preparations, and it consistently facilitates planning and monitoring of all EI-related activities for both the country's preparations for the EI process (NPAA) and the co-ordinated use of EU assistance (Instrument for Pre-accession Assistance [IPA] programming documents).

While the NPAA is a comprehensive document indicating priorities for all policy areas according to the Negotiation Chapters and implementation deadlines for all actions¹¹⁵, challenges remain in costing of

¹¹² Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-33=5.

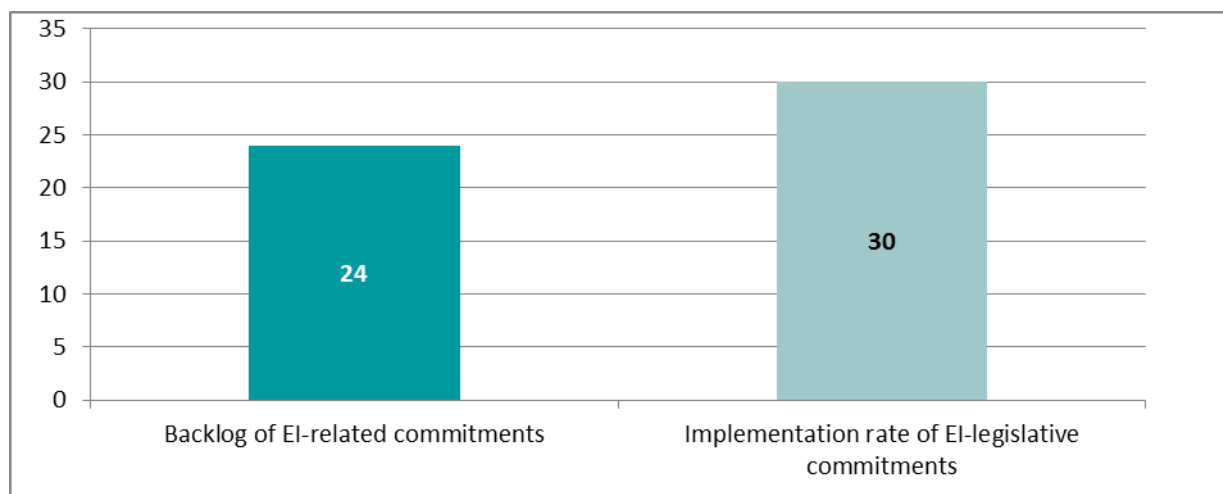
¹¹³ The Stabilisation and Association Agreement (SAA) prescribes that the harmonisation of domestic legislation with the *acquis* starts with the date of signing the Agreement and that it will gradually (by the end of a transition period lasting no more than six years) expand to cover the legislation of the Community (today Union) referred to in the Agreement. In that regard, under Article 72(4) of the SAA, harmonisation will be implemented on the basis of a special programme, agreed between the European Commission (EC) and Serbia.

¹¹⁴ Government Decision on the Second Revision of the National Programme for the Adoption of the *Acquis*, October 2015.

¹¹⁵ In many cases the deadlines are multi-annual.

reforms, as the revised NPAA does not provide any information on the costs and sources of funding even though the Government adopted an instruction on the costing of the NPAA¹¹⁶. Moreover, nearly one-quarter of EI-related commitments were carried forward from 2016 to 2017, and the implementation rate of the EI-related legislative commitments is very low (the Government adopted only one-third of such proposals in 2016¹¹⁷). In addition, the NPAA is not fully aligned with the GAWP, as 12 out of 58 draft laws included in the revised NPAA for adoption in 2017 were not included in the GAWP (79% alignment).

Figure 2. Backlog of EI and implementation rate of related legislative commitments (%)



Source: SIGMA calculation based on the analysis of consecutive versions of the National Programme for the Adoption of the *Acquis* and information about legislative decisions.

Given that the activities of the NPAA are not costed as envisaged and required and are not sufficiently aligned with the GAWP, the implementation backlog and a very low implementation rate of EI-related legislative commitments, the value for the indicator on 'Quality of policy planning for European integration' is 2.

¹¹⁶ Instructions for collecting data on the financial aspects of the implementation of the National Programme for the Adoption of the *Acquis* - NPAA, adopted with the Government Conclusion on the Second Revision of the National Programme for the Adoption of the *Acquis*, October 2015.

¹¹⁷ This is partly attributable to limited Government decision making due to the early election process and formation of the new Government.

Quality of policy planning for European integration

This indicator analyses the legislative set-up established for policy planning of the EI process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI-related commitments.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. The legal framework enables harmonised planning of EI	2/2
2. Quality of planning documents for EI	2/6
3. EI-related commitments carried forward	3/4
4. Implementation rate of the government's plans for EI-related legislative commitments (%)	0/4
Total¹¹⁸	7/16

The medium-term EI planning system is in place. Although the main EI planning document, the NPAA, is a comprehensive prioritisation document, it is not properly aligned with the GAWP and does not provide costing of activities. Furthermore, the implementation rate of EI-related legislative commitments is very low, and the backlog is mediocre.

Principle 5: Regular monitoring of the government's performance enables public scrutiny and supports the government in achieving its objectives.

The Law on the Government obligates the Government to inform the public about its work¹¹⁹. The RoP of the Government stipulate that the Government should prepare two periodic reports: one on the implementation of the GAWP, to be submitted to the National Assembly, and one on the implementation of the Government Programme¹²⁰. However, the requirements are not observed in practice. The last report for the GAWP was submitted to the National Assembly in 2015, covering the year 2014. No reports are available on GAWP implementation for 2015 or 2016¹²¹. There is not sufficient evidence on how monitoring of the APIGP implementation has been carried out since its initial elaboration in 2015¹²². Regulations also oblige the Government to report on the implementation of the state budget¹²³ and the NPAA¹²⁴, but no legislative framework or procedures are established for monitoring and reporting on sectoral strategies.

Furthermore, the requirements to publish regular reports are not exhaustive. The RoP of the Government and the Budget Law stipulate that the Government should adopt annual reports on the implementation of the GAWP and budget execution, and submit them to the National Assembly. A

¹¹⁸ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

¹¹⁹ The Law on the Government, Article 9, Official Gazette Nos. 55/05, 71/05, 101/07, 65/08, 16/11, 68/12, 72/12, 7/14.

¹²⁰ The RoP of the Government, Official Gazette No. 76/14, Articles 78-79a.

¹²¹ Information provided by the GSG.

¹²² According to the PPS, the APIGP is constantly monitored and monthly reports are prepared. The PPS provided the template for this assessment, but not the reports themselves. Hence, it is not possible to analyse the quality of monitoring and reporting of the implementation of the APIGP.

¹²³ Law on the Budget System, Official Gazette Nos. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13-corr. 108/13, 142/14, 68/15, 103/15 and 99/16.

¹²⁴ Government Conclusion on the Second Revision of the National Programme for the Adoption of the *Acquis*, October 2015.

clear obligation to publish regular reports is in place also for the NPAA, but publication of the APIGP reports is not stipulated in the regulation; moreover, absent set rules for strategy development, the reporting and publication of reports about sector strategy implementation is also without any rules¹²⁵. Because of these regulatory gaps and disregard of set rules, only the annual budget execution report and the EI negotiations report are publicly available. The reports for 2015 and 2016 on the NPAA, the GAWP, the APIGP and sector strategies are not comprehensively available.

Without measurable outcome indicators, neither the GAWP nor the NPAA reporting can provide reliable information on the achievement of the planned objectives. The monthly EI report developed by the MEI provides some information on delivering outputs in certain areas, but mainly it describes the actions carried out. The same applies to the biannual reporting developed by the Negotiating Team on the EU membership negotiations: the report covers the main developments from the perspective of the negotiation chapters only. Although the report on the implementation of the PAR Strategy covers outcome-level indicators, in the absence of other strategy monitoring reports this does not demonstrate a regular practice of monitoring and reporting on sector strategies.

Due to gaps in the monitoring and reporting system, the public provision of the developed reports and the overall quality of the reports, the value for the indicator on the 'Quality of government monitoring and reporting' is 2.

Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. The legal framework enables good monitoring and reporting	4/8
2. Quality of reporting documents	2/12
3. Public availability of government reports	2/5
Total¹²⁶	8/25

The legal framework for monitoring and reporting fails to regulate the requirements for reporting on the implementation of sector strategies. While requirements to publish reports are established, they are not followed in practice. Reporting was sporadic in 2016, with no GAWP or NPAA report. Where reports exist, they do not contain information about progress on achievement of outcomes against measurable indicators.

Key recommendations

Short-term (1-2 years)

- 1) In partnership with the MoF, the MPALSG and the GSG, the PPS should commit the necessary resources to finalise and submit for adoption the draft Law on Planning and related secondary

¹²⁵ Only one strategy report from 2016, the report on the implementation of the Serbian PAR Strategy 2014-2020, was shared by the administration. That report is publicly available. None of the last five sector strategies adopted by the Government in 2016 analysed by SIGMA included any provision for monitoring.

¹²⁶ Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.

regulations, in order to establish a unified medium-term policy-planning system. Among other things, the legislative package should ensure that it provides regulation and procedures for development of sector strategies, including costing of strategies and public-policy development in the broader sense. In addition, the proposed legislation should set clear monitoring and reporting arrangements, including reporting deadlines, publication conditions and a focus on outcomes.

- 2) The GSG and the PPS should strengthen their capacity to steer the process and establish priorities when developing central planning documents.
- 3) The GSG, the PPS and the MEI should ensure the timely development and publication of the GAWP reports, and report on the implementation of the APIGP and on the NPAA progress.
- 4) The MEI and the MoF should ensure that the NPAA includes cost estimates and information about sources of funding, in line with their respective instructions.

Medium-term (3-5 years)

- 5) Monitoring of central planning documents should include information about the achievements against set policy objectives.

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.

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the EU candidate countries and potential candidates (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The legal framework set by the RoP of the Government establishes procedures for preparation, follow-up and communication on Government sessions¹²⁷. It does not, however, set clear deadlines for preparation and submission of draft proposals to Government sessions. The sessions are to be convened by the Prime Minister in writing, with a draft agenda and relevant materials available at least one day before the session¹²⁸.

The RoP list all institutions that should review materials submitted to the Government and should provide mandatory opinions¹²⁹. The RSL and MoF are to issue an opinion on all draft laws, regulations, fiscal strategies, development strategies and other acts. The opinion of the MEI is required for all proposed draft laws and by-laws, which must be harmonised with the *acquis*. The opinion of the PPS is required for all draft laws and sectoral strategies, programmes and action plans. The GSG verifies that

¹²⁷ The RoP of the Government, Official Gazette No. 76/14, Articles 5, 35, 46-50.

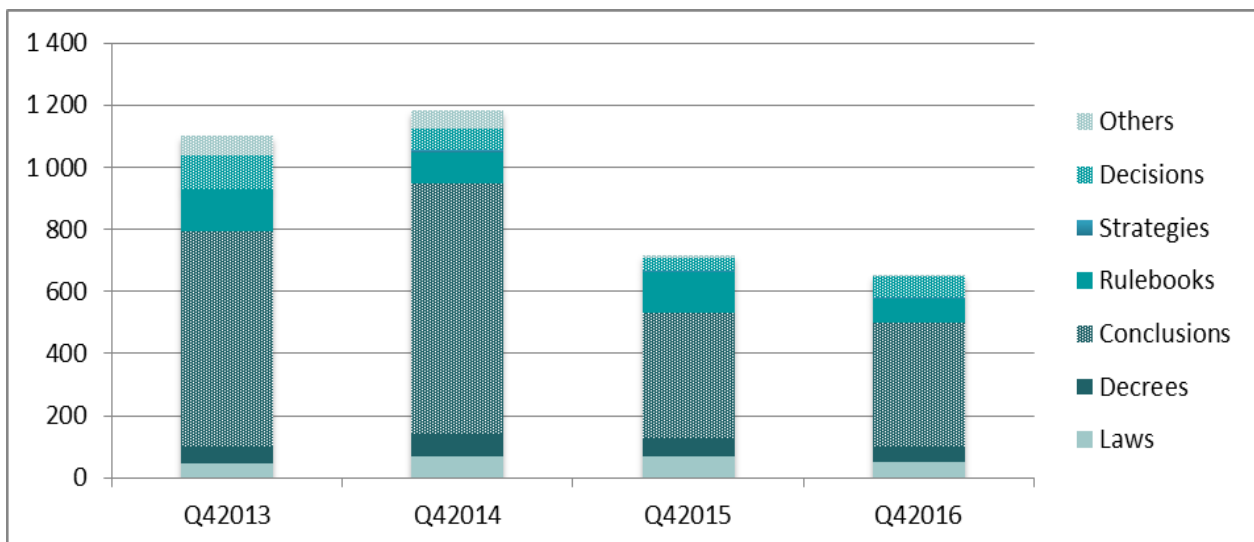
¹²⁸ The RoP of the Government, Official Gazette No. 76/14, Article 52.

¹²⁹ The RoP of the Government, Official Gazette No. 76/14, Articles 46 and 50.

proposals were prepared according to the RoP requirements. While the PPS reviews proposals regarding their content and relation to existing policies, neither the GSG nor the PPS is mandated to return proposals on the basis of flawed content. Furthermore, no CoG body is mandated to oversee the policy development and consultation processes to ensure compliance with the set standards, if they exist¹³⁰.

A review of a sample of draft laws adopted by the Government¹³¹ shows that legal and financial scrutiny is performed in all cases and that the completeness of the dossiers is ensured. In addition, RIAs were checked in all analysed cases where applicable; they comment on alignment with existing policies, but not on their relation to the Government priorities. In 2015 and 2016, the number of items that were submitted and had to be reviewed in one quarter of the year by the CoG institutions before the Government sessions was decreased significantly compared with those of 2013 and 2014. However, the number of items is still high, averaging a minimum of 50 items for every Government session. More than two-thirds of the items are Government conclusions that have not been scrutinised for the quality of policy content, although they often regulate important issues of policy design and implementation. As a rule, these conclusions are not published, hampering the transparency of decision making on all policy issues.

Figure 3. Number and type of items submitted to the GSG at the end of the fourth quarter, 2013-2016¹³²



Source: General Secretariat of the Government of Serbia.

Even though the Law on Government¹³³ and the RoP¹³⁴ state that the “Government work shall be public”, the agendas of the Government sessions are not made public. Government decisions are made

¹³⁰ However, the PPS often consults informally with proponents of new policies regarding the structure, elements and content of the draft public-policy documents.

¹³¹ The analysed five laws were: The Draft Law on Amendments and Addenda to the Law on the Salary System in the Public Sector, Draft Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Government of the State Qatar for the Reciprocal Promotion and Protection of the Investments, Draft Law on Ratification of the Agreement between the Republic of Serbia and Romania on Social Security, Draft Law on Ratification of the Agreement on the status and functions of the International Commission on Missing Persons, Draft Law on Ratification of the Finance Contract Upgrading of Judiciary Buildings B, between the Republic of Serbia and the European Investment Bank.

¹³² A similar graph in the 2015 SIGMA *Baseline Measurement Report: Serbia* (p. 27) was based on data that was corrected for 2013 and 2014 by the GSG when providing information for this analysis.

¹³³ Article 9 of the Law on the Government, Official Gazette Nos. 55/05, 71/05, 101/07, 65/08, 16/11, 68/12, 72/12 and 7/14.

¹³⁴ The RoP of the Government, Official Gazette No. 76/14, Article 93.

public through the Official Gazette and on the Government's website¹³⁵, and information about the key decisions of the Government sessions is communicated to the public.

According to the 2017 Balkan Barometer survey, 40% of the responding businesses strongly or mostly agree that laws and regulations affecting their companies are clearly written, not contradictory and do not change too frequently.

Taking into account the above assessment, the value for the indicator 'Transparency and legal compliance of government decision-making' is 3.

Transparency and legal compliance of government decision making						
This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision-making, and businesses' perception of the transparency of government policy making.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. The legal framework establishes procedures for government sessions	3/5
2. Consistency of the CoG in setting and enforcing the procedures	4/4
3. Timeliness of ministries' submission of regular agenda items to the government session (%)	0/3
4. Openness of government decision making process	2/4
5. Perceived clarity and stability of government policy making by businesses (%)	1/4
Total¹³⁶	10/20

Procedures for the preparation of Government decisions are in place and are applied in practice, but there are no deadlines for the submission of drafts before the Government sessions. The CoG is not mandated to send back drafts if the content is insufficient. The work of the Government is publicly available, but not all types of decisions are available online. Agendas of Government sessions are not made available to the public.

Principle 7: The parliament scrutinises government policy making.

Detailed procedures set out in the RoP for the Government¹³⁷ and the RoP for the Parliament¹³⁸ regulate relations between the Government and the National Assembly. Overall, the regulatory framework to conduct parliamentary scrutiny of government policy making is in place. The RoP of the National Assembly¹³⁹ enable it to carry out the oversight functions of the Government, mostly through Parliamentary questions or reporting of the Government to the Assembly. The draft laws that the Government submits to the Parliament must contain the legal text and the rationale¹⁴⁰. A sample

¹³⁵ The main decisions of the Government can be found at: <http://www.srbija.gov.rs/vesti/dokumenti.php?id=2430>.

¹³⁶ Point conversion ranges: 0-1=0, 2-5=1, 6-9=2, 10-13=3, 14-17=4, 18-20=5.

¹³⁷ The RoP of the Government, IV. Relations between the Government and other authorities, Relationship between Government and the National Assembly. The RoP of the Government, Official Gazette No. 76/14.

¹³⁸ The RoP of the National Assembly, XV. Relations between the National Assembly and the Government, Official Gazette of 28 July 2010.

¹³⁹ The RoP of the National Assembly, Section 14, Official Gazette of 28 July 2010.

¹⁴⁰ The RoP of the National Assembly, Article 151, Official Gazette of 28 July 2010.

review of five draft laws¹⁴¹ submitted by the Government to the Assembly shows that these requirements are respected. The legal drafting rules followed by the Assembly are consistent with those followed by the Government, except that the latter is also required to develop RIAs for draft laws, while other law proponents, including Members of Parliament (MPs), are not. The National Assembly has also established a requirement that a draft law must be discussed by the Government before being discussed at the Assembly, if it was not proposed by the Government¹⁴². In 2016, the Government issued 43 opinions on draft laws initiated by members of the Assembly. A sample review of the last three laws drafted by members of the Assembly¹⁴³ shows that the Government provided its opinion in two of three cases, with ample justification for rejecting the proposals.

The Assembly plans its programme of work based on the GAWP, which the Government submits as required by the RoP of the National Assembly¹⁴⁴. However, the day-to-day co-ordination of work and decision making between the services of the Assembly and the Government is based on the needs at the time and without prior or regular planning. In addition, the GAWP is merely indicative for the legislative activities of the Government. Of the 86 Government-submitted laws adopted by the Assembly in 2016, only 43 were previously included in the GAWP.

The Government proposes less than half of the legislation submitted to the Assembly¹⁴⁵, with MPs and other authorised proposers initiating the remainder. However, the Government proposed the majority of the laws adopted and published in the Official Gazette in 2016¹⁴⁶. The share of laws initiated by the Government and approved by the Parliament in one year was 99%. At the same time, the share of Government-sponsored draft laws adopted through urgent procedures was 65%. This situation is worrisome, given that the Assembly received a considerably lower number of draft laws due to the general elections in 2016. In 2015, the Parliament received 230 draft laws (of which 185 were submitted by the Government), compared to only 142 in 2016 (of which 62 were submitted by the Government)¹⁴⁷.

The RoP of the National Assembly¹⁴⁸ require the Government to designate members to represent it on individual agenda items of the sittings of the Assembly or its committees. As a rule, the Government representatives participate in parliamentary discussions of draft laws at both committee meetings and the plenary¹⁴⁹.

The National Assembly did not discuss reports on implementation of laws or strategies in 2016. This result has deteriorated compared to 2014, when three such implementation reports were discussed and conclusions were adopted on them.

¹⁴¹ The five proposals analysed by SIGMA are: 1) Draft Law on Amendments and Addenda to the Law on the Salary System in the Public Sector; 2) Draft Law Amending the Law on Public Media Service; 3) Draft Law on the Temporary Arrangement of the Method of Charging Fees for Public Media Service; 4) Draft Law Amending the Law on Value Added Tax (VAT); and 5) Draft Law Amending the Law on Tax Procedure and Administration.

¹⁴² The RoP of the National Assembly, Article 155.

¹⁴³ Law on Addenda to the Law on Social Protection, Draft Law Amending the Labour Law, Draft Law on Financing Autonomous Province of Vojvodina.

¹⁴⁴ The RoP of the National Assembly, Article 28, Official Gazette of 28 July 2010.

¹⁴⁵ Information is based on the website of the National Assembly: <http://www.parlament.gov.rs/national-assembly/national-assembly-in-numbers/number-of-bills-submitted.3696.html>.

¹⁴⁶ This refers to 86 of 88 laws adopted and published. For further details: <http://www.parlament.gov.rs/national-assembly/national-assembly-in-numbers/number-of-laws-published-in-the-official-gazette-of-the-republic-of-serbia.3698.html>.

¹⁴⁷ <http://www.parlament.gov.rs/national-assembly/national-assembly-in-numbers/number-of-bills-submitted.2004.html>.

¹⁴⁸ The RoP of the National Assembly, Article 272.

¹⁴⁹ The National Assembly has no detailed statistics on participation of government representatives in committee meetings or plenary sessions, but this practice has been confirmed through interviews with representatives of the National Assembly and the GSG, as well as line ministries.

Given the limited review of implementation of Government policies, limited adherence to the previously set legislative agenda and especially the excessive number of laws adopted through urgent procedures, the value for the indicator 'Parliamentary scrutiny of government policy making' is 3.

Parliamentary scrutiny of government policy making						
This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making	5/5
2. Completeness of supporting documentation for draft laws submitted to the parliament	3/3
3. Co-ordination of governmental and parliamentary decision-making processes	1/2
4. Systematic review of parliamentary bills by the government	1/1
5. Alignment between draft laws planned and submitted by the government (%)	0/2
6. Timeliness of parliamentary processing of draft laws from the government (%)	2/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)	0/5
8. Government participation in parliamentary discussions of draft laws	2/2
9. Basic parliamentary scrutiny of the implementation of policies	0/2
Total¹⁵⁰	14/24

Overall, the procedures for legislative scrutiny in the National Assembly are well-defined and in place. Forward planning of the work of the Assembly is ensured. The key challenges in parliamentary scrutiny are the extensive use of urgent procedures and a lack of focus on review by the Assembly of implementation of laws and policies.

Key recommendations

Short-term (1-2 years)

- 1) The Government should amend its RoP to define the timeframe for the submission of proposals for Government deliberation.
- 2) The GSG and PPS should propose the changes to the RoP of the Government, the Law on Ministries and other relevant regulations to ensure that the Secretary General of the Government can return the material submitted for Government sessions to the initiating ministries in case of insufficient quality.
- 3) The Government should appoint an institution to be in charge of reviewing all policy proposals from a policy-content perspective, including a review of necessary regulations. Necessary resources should be allocated to this institution to allow it to perform this function comprehensively and effectively.

¹⁵⁰ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.

- 4) The GSG should ensure that the agendas of Government sessions are made public prior to these sessions.
- 5) The use of urgent procedures for the adoption of laws should be significantly reduced. Both the Government (when submitting draft laws to the National Assembly) and the National Assembly (when accepting draft laws into procedure) should provide justification for using this procedure.

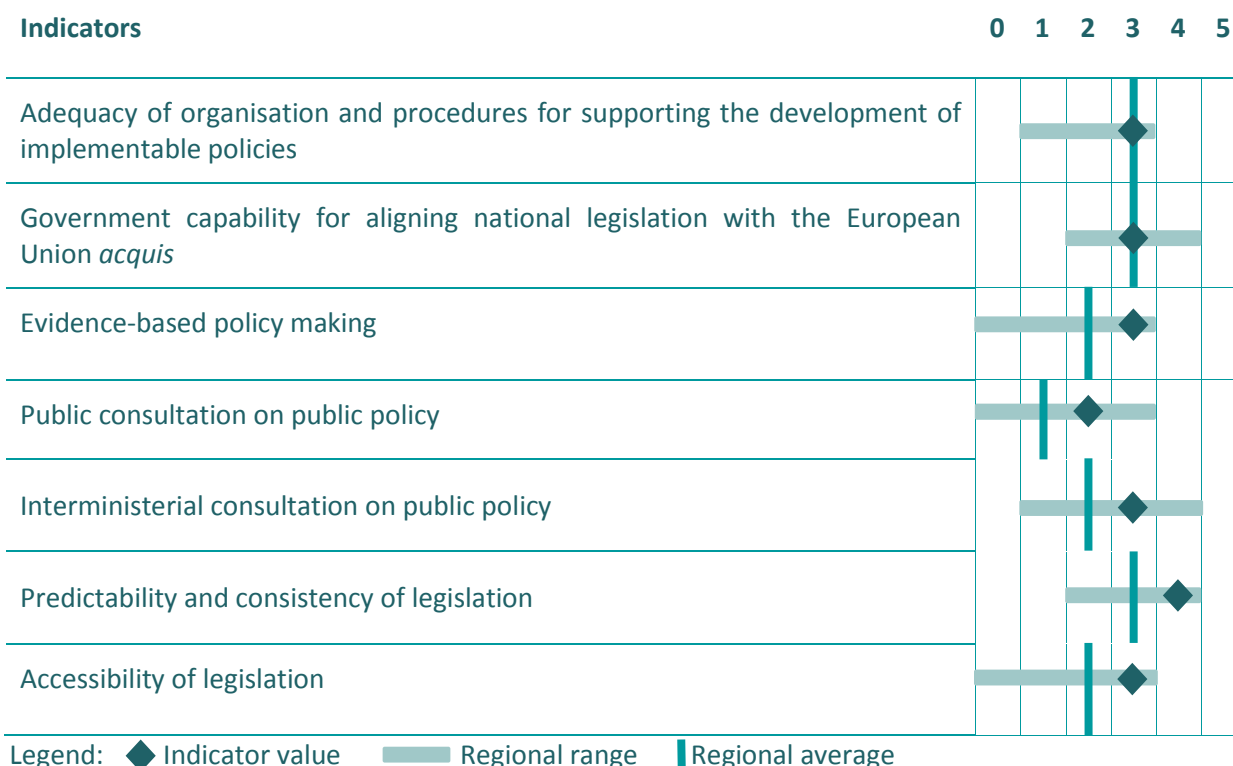
Medium-term (3-5 years)

- 6) The National Assembly should exercise its right to scrutinise the Government's work through discussion of the implementation of major laws and policies.
- 7) The Government should review its approach to publication of all types of Government decisions (including the Government Conclusions) and widen publication to include all decisions made by the Government, unless their content is of a purely administrative nature or if their publication would jeopardise the national interest.

Policy development

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



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.

The structures and tasks of the ministries are established through the Law on Ministries¹⁵¹, which also defines their policy responsibilities. This Law is supported by rulebooks on the internal organisation and structure of ministries. The policy development process in Serbia involves policy units preparing legislative files and legal units converting policy and legislative requests into actual legislative proposals. As a general rule, the responsibility for policy development is not transferred to subordinate bodies.

While the roles and responsibilities of ministries are well established and ministers may delegate tasks to state secretaries¹⁵², the process of developing policy proposals is not sufficiently structured. Of the three ministries analysed¹⁵³, none had developed internal rules that regulate in detail the procedures

¹⁵¹ The Law on Ministries, Official Gazette Nos. 44/2014, 62/2017.

¹⁵² Law on State Administration, Official Gazette Nos. 79/2005, 101/2007, 95/2010 and 99/2014, Article 24.

¹⁵³ The Ministry of Agriculture and Environmental Protection (MAEP), the Ministry of Economy (MoE) and the Ministry of Labour, Employment, Veteran and Social Affairs. In addition to the written answers, interviews were held with the MAEP, the Ministry of Trade, Tourism, and Telecommunications and the Ministry of Labour, Employment, Veteran and Social Affairs.

and processes of policy development and legal drafting. Working groups are the main recurring mechanism through which ministerial departments directly co-ordinate the design of policy proposals. The involvement of relevant departments within a line ministry in policy development and law making is thus not fully guaranteed¹⁵⁴.

The number of staff dealing with policy development is less than 30% of all staff in some ministries¹⁵⁵. In Serbia, large inspection and implementation departments are often part of the ministerial structure instead of being subordinated bodies¹⁵⁶.

The overall challenge lies in the administration's capacity to develop high-quality policies and legislation and its capacity to implement the *acquis* properly and effectively. The lack of clear internal procedures for policy development does not guarantee that general requirements for policy development are effectively integrated into the working processes of line ministries. The quality of policy development itself is addressed in the three Principles that follow.

Owing to a lack of internal rules and the low share of policy development staff in some ministries, the value for the indicator 'Adequacy of organisation and procedures for supporting the development of implementable policies' is 3.

Adequacy of organisation and procedures for supporting the development of implementable policies						
This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for effective policy making	3/4
2. Staffing of policy-development departments (%)	1/2
3. Adequacy of policy-making processes at ministry level in practice	2/6
Total¹⁵⁷	6/12

Ministries have well-defined organisational structures with clearly attributed policy responsibilities. The overall system for policy development is supported by appropriate general rules, but they are not translated into specific procedures within the 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 European Union acquis.

The EI framework and the roles and responsibilities of the different actors are defined. The legislative

¹⁵⁴ This finding is based on the absence of internal rules for policy development. The working practice was confirmed during interviews. There are, for example, no clear internal rules that need to be adhered to in order to start the public debate or to submit a proposal for interministerial consultation.

¹⁵⁵ Based on the calculation of staff working on policy development in the MAEP (, where it is 33%, the MoE (47%), and the Ministry of Labour, Employment, Veteran and Social Affairs (only 17% of the staff deal with policy development tasks.

¹⁵⁶ This is the case, for example, in the Ministry of Trade and the Ministry of Labour, Employment, Veteran and Social Affairs.

¹⁵⁷ Point conversion ranges: 0=0, 1-2=1, 3-5=2, 6-8=3, 9-10=4, 11-12=5.

framework establishes rules for transposition of the *acquis*, including authority for quality control and supervision by the MEI, along with specific requirements for ministries in the transposition process¹⁵⁸. The MEI is responsible for quality control for transposition of the *acquis* and shares with the RSL responsibility for guaranteeing that the *acquis* is transposed properly¹⁵⁹. Procedures are embedded within the RoP and specific rules on transposition requirements¹⁶⁰.

The requirement to develop tables of concordance is set in regulations¹⁶¹ and followed in practice¹⁶². The EU *acquis* is consistently translated into Serbian¹⁶³. Quality control is facilitated by the MEI, which provides its opinion on transposition cases and has the authority to make changes or issue a negative opinion on the draft submitted by a responsible ministry¹⁶⁴. In 2016, the MEI issued some 450 opinions, indicating that the organisation is closely involved in the preparation of decision making by the Government¹⁶⁵.

The same requirements that apply to national legislative proposals govern the policy development and decision-making process for transposition cases, since the RoP of the Government establish the process for EI-related drafts in line with those for national policy proposals. EI co-ordination, including conflict resolution, is regulated¹⁶⁶, and two co-ordination bodies lead the process. The EI Co-ordination Body operates on the political level, while the EI Coordination Body Council provides administrative co-ordination. The two bodies did not meet in 2016¹⁶⁷.

Implementation of EI commitments is characterised by a high backlog and a low implementation rate. More than two-thirds of EI-related commitments were carried forward from the original NPAA to the revised version. The implementation rate of draft regulations transposing EU directives was only 26%.

As a consequence of the substantial backlog and low implementation rate of the EI-related commitments, the value for the indicator 'Government capacity for aligning national legislation with the European Union *acquis*' is 3.

¹⁵⁸ Decision of the Government of the Republic of Serbia on the Establishment of the European Integration Office, Official Gazette Nos. 75/05, 63/06, 126/07, 117/08, 42/10, 48/10 and 106/12 and the Law on Ministries, Official Gazette 62/2017. The finding is further based on information provided by the administration and interviews.

¹⁵⁹ While the MEI checks the quality of fulfilment of tables of concordance and overall alignment with EI, the Legislative Secretariat checks the general conformity with the legal system and the Constitution.

¹⁶⁰ Also relevant are Article 46 of the Government RoP and the Instructions for Filling in the Tables on Compliance of Regulations.

¹⁶¹ RoP of the Government, Article 39.

¹⁶² For the assessment, SIGMA requested the five most recent *acquis* alignment cases (laws and by-laws). The following five were submitted: draft Law on Transfusion Medicine; Regulation on Sharp Objects in Health Care; the Law on Amendments to the Customs Act 2016; the Law on Takeovers; and the Capital Market Law. Tables of concordance were provided for all of these transpositions.

¹⁶³ Serbian translations of the original EU acts were submitted for all the samples referred to in the previous footnote. According to the MEI, in the framework of the centralised system of preparation of the Serbian version of the EU *acquis*, a total of around 58 000 pages of the EU *acquis* text have been translated so far. In the meantime, a certain number of translated EU documents have been repealed or have expired, so around 41 500 pages of the *acquis* are available for the harmonisation work. All documents that have been translated were nominated by the relevant public administration institutions because they needed them for alignment purposes.

¹⁶⁴ This finding was confirmed by interviews with CoG institutions and line ministries.

¹⁶⁵ This number is based on data provided by the MEI, in particular the Department for Coordination of the Accession Process and Monitoring of the Stabilisation and Association Agreement and the Department for the Accession Process Coordination and Monitoring of the Stabilisation and Association Agreement - Economic Criteria.

¹⁶⁶ RoP of the Coordinating Body for the Process of Accession of Serbia to the EU, Official Gazette of Republic of Serbia, Nos. 84/13 and 86/13.

¹⁶⁷ Information provided by the MEI.

Government capability for aligning national legislation with the European Union *acquis*.

This indicator measures the adequacy of the legal framework for the *acquis* alignment process, the government's consistency in using the tables of concordance in the *acquis* alignment process and the availability of the *acquis* in the national language. It also assesses the results of the *acquis* alignment process, focusing on the planned *acquis* alignment commitments carried forward from one year to the next and how the government is able to achieve its *acquis* alignment objectives.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process	5/5
2. Use of tables of concordance in the <i>acquis</i> alignment process (%)	2/2
3. Translation of the <i>acquis</i> into the national language	2/2
4. <i>Acquis</i> alignment commitments carried forward (%)	0/4
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)	0/4
Total¹⁶⁸	9/17

The EI process is defined, responsibilities have been assigned, and the process is procedurally embedded into the overall policy development system. The use of tables of concordance is consistently followed in practice. The forums for EI-related conflict resolution and co-ordination are established but not used in practice. The implementation rate of EI commitments is low, and the backlog is high.

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

The RoP define the steps that must be followed when proposals are sent for approval at Government sessions. Draft decisions submitted by a ministry to the Government should be accompanied by a rationale explaining the need and justification for the proposal. Ministries also need to provide replies to a set of questions on the impact of the proposal and assess the costs of implementation¹⁶⁹.

Every policy proposal must be supported by a Financial Impact Assessment (FIA)¹⁷⁰, and guidance has been developed for line ministries on how to develop these¹⁷¹. The MoF is responsible for safeguarding the quality of the assessments and issues its opinion on each proposal. The implementation of FIA is consistent¹⁷², but is not, as required by regulation, part of the Explanation of the law¹⁷³.

¹⁶⁸ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-17=5.

¹⁶⁹ See also Articles 39 and 40 of the Government RoP.

¹⁷⁰ The Serbian acronym for the form is PFE.

¹⁷¹ Rulebook on the manner of presentation and reporting estimated financial effects of the law, regulation or other act on the budget or financial plan and the Instruction for filling in the FIA form, adopted in March 2015.

¹⁷² The assessment sample consisted of the five last new draft laws approved by the Government at the end of 2016. These cases were: the Law on Biomedical Assisted Reproduction; the Law on Transfusion Medicine; the Law on Airports; the Law on Services; and the Law on Housing and Building Maintenance. The Law on Transfusion Medicine was not supported by FIA as the impact to the budget would be from 2019 onwards, beyond the timeline for which FIA is required.

¹⁷³ Rulebook on the manner of presentation and reporting estimated financial effects of the law, regulation or other act on the budget or financial plan, Article 2.

Ex ante RIAs exist and follow established procedures. RIAs are supported by guidelines that contain local examples and are published online¹⁷⁴. The PPS provides opinions on the quality of every RIA and assesses whether it is complete¹⁷⁵. In 2016, nearly all relevant laws were supported by at least a partial RIA. At the same time, half of the opinions of the PPS related to laws for which an RIA was not necessary, and the opinions served only to confirm this¹⁷⁶. The opinions of the PPS are published on its website, along with the proposals and associated impact analysis. However, the PPS does not have the official right to return RIAs and require that line ministries improve their justification and analysis for a proposal before it can be tabled for adoption by the Government. Training on RIAs has been organised, but its reach in terms of number of trained officials is insufficient, given the size of the Serbian administration¹⁷⁷.

A review of five sample laws shows that the impact analysis is not comprehensive. Although the problems are defined and options compared, the comparisons are not based on a detailed analysis of each option. Options are listed in a specific chapter but are not compared with through any systematic approach. After the general presentation of options, each RIA is limited to the analysis of the preferred option. In addition, the overall quality of the impact analysis is poor and not evidence-based¹⁷⁸. Approaches to monitoring and evaluating progress are not comprehensively identified in any of the analysed cases.

Information on costing of the identified impacts and the assessment of the impacts on the budget are largely absent. Only the RIA on the Law on Services contained a general prediction of the costs of implementation. For all RIAs, the description of the implementation process is insufficient¹⁷⁹. The budget impact identified in the FIA forms is not reflected in the RIAs. The lack of quality for costing in the RIAs and the absence of the information that is consistently produced through the obligatory FIA forms indicates that the PPS and the MoF do not effectively align their respective processes for predicting policy impacts. Therefore, a broad assessment cannot be made for all the relevant impacts of policies with regard to issues such as added value of society and cost-effectiveness of the proposals.

The Parliament's RoP require the submission of a rationale for adopting a proposal. When the Government develops an RIA, it can be submitted as well¹⁸⁰. However, the Government does not officially submit RIAs for its draft proposals to the National Assembly¹⁸¹.

As a consequence of the above-detailed features and shortcomings the value for the indicator 'Evidence-based policy making' is 3.

¹⁷⁴ <http://www.rsip.gov.rs/metodologija-analize-efekata-propisa>.

¹⁷⁵ The PPS reported that it issued 117 opinions in 2016.

¹⁷⁶ Findings based on the PPS report.

¹⁷⁷ Descriptions of several training sessions on impact assessment and on data collection, analysis and usage were provided, together with two lists of participants. However, training is not systematically embedded into the civil service training system managed by the Human Resource Management Service of Serbia.

¹⁷⁸ For example, the Law on Housing and Building Maintenance does not address social aspects in sufficient detail, even though the RIA predicts a large number of positive and negative effects for owners of houses/apartments and tenants.

¹⁷⁹ For example, the RIA for the Law on Biomedical Assisted Reproduction states that by-laws need to be developed. It remains unclear, however, who is meant to develop these and within what timelines. The draft also states that new staff should be recruited and an information system developed, but it does not provide details such as planned timelines for implementation, cost expectations or which organisation or department is responsible for implementation.

¹⁸⁰ Article 151 of the RoP of the National Assembly is also relevant.

¹⁸¹ Finding based on interviews with the National Assembly representatives.

Evidence-based policy making

This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and broad impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
1. Use of basic analytical tools and techniques to assess the potential impacts of new draft laws	2/2
2. Use of budgetary impact assessment prior to approval of policies	2/3
3. Use of broad Regulatory Impact Assessments	2/3
4. Availability of guidance documents on RIAs	2/2
5. Quality control of RIAs	2/3
6. Quality of analysis in RIAs	6/15
Total¹⁸²	16/28

Serbia develops RIAs for draft proposals and regulated requirements are comprehensive, with implementation supported by easily accessible and detailed guidelines, but the quality of the analysis of impacts varies. Implementation and monitoring are not addressed in RIAs, and financial information in FIAs and RIAs are not aligned. The PPS routinely scrutinises the quality of RIAs, and its opinions are published along with the proposals and supporting RIAs. The PPS does not, however, have a mandate to return low-quality RIAs for revision.

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

The need for consultation with external stakeholders is enshrined in the Law on Public Administration, the RoP of the Government and expressed in various guidelines¹⁸³. Relevant requirements are defined by the legal framework¹⁸⁴, except for reporting in detail on the contributions provided by stakeholders and detailed information on how these were taken into account. Consultations generally comply with the procedural requirements on the length of the public consultation process and the reporting obligations on the public debate process¹⁸⁵.

As the most common and legally required form of consultation, public debates must be conducted for draft proposals that would change legal matters significantly, or when the public has a significant

¹⁸² Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

¹⁸³ Handbook for RIA and Guidelines for Inclusion of Civil Society Organizations in the Regulation Adoption Process of 26 August 2014.

¹⁸⁴ Based on Article 77 of the Law on Public Administration, Article 41 of the Government RoP sets out procedures for public consultation. It stipulates that ministries have to publish an invitation to participate in a public debate, establishes the minimum timelines for submissions by stakeholders, obligates ministries to draft and publish a consultation report and provides the basis for publishing supporting documents to the proposal that is submitted for public consultation.

¹⁸⁵ Finding based on the analysis of the packages presented to the Government for the five last new draft laws that the Government approved at the end of 2016. The proposals submitted for public debate contained a short report about the consultation process.

interest in the topic of the law. Public debates conducted by ministries are expected to be published on their websites and on the e-government portal. It is not mandatory to hold public debates for by-laws or for strategies¹⁸⁶. In addition to the public debates, ministries usually establish co-operation with a limited group of stakeholders by inviting them to participate in working groups for the development of strategies and laws. Such stakeholders can play an important role during the development of policy proposals.

Despite the requirements, line ministries do not uniformly conduct consultations: just two of the four analysed ministries published at least 50% of their draft laws for written public consultations online in 2016¹⁸⁷. The best performance was in the environmental policy domain, with consultations on all laws adopted in 2016¹⁸⁸. In addition, debates are usually held at the end of the development process for legislation. Written public consultation is not organised systematically through an obligatory single central portal, as ministries regularly publish consultations only on their own websites, but not on the e-government portal, as is required by the RoP¹⁸⁹. No organisation is responsible for scrutinising the consultation process or its outcomes. The GSG ensures that the report on the public debate is part of the package submitted for the Government sessions, but it does not check the quality of the information on the consultations.

While the outcome of a public debate should be included in the package when a proposal is submitted for Government adoption, information on the outcomes does not include a complete presentation of the consultation process. No detailed overviews are available in which stakeholder suggestions are presented along with information on whether or not suggestions were taken forward¹⁹⁰. In the five last draft laws and corresponding RIAs analysed by SIGMA¹⁹¹, the information on the public debates mainly covered procedural aspects, such as the start and end of the consultation, and the date and location of the debates. Moreover, one law of the five analysed (the Law on Airports, which deals with provisions for the concession process of the Belgrade Airport) was not submitted for public debate. The justification for exempting it from public debate was the need for an urgent procedure and the fact that the proposal was consonant with public procurement rules, the concession regulation and other laws. This justification clearly demonstrates a breach of genuine public consultation on such an important issue. In the analysed draft laws where public debate was organised, stakeholders' comments were not systematically reflected and the RIA did not identify the origins of the suggestions. Ministries do not develop or publish overviews in which individual comments from stakeholders are presented. Nor do they make public whether or not a suggestion was taken forward or what the rationale for the choice was. There is no information about whether – except for the draft legal text – additional documents such as draft RIAs are shared with the stakeholders as part of the consultation.

The RoP stresses the need to obtain opinions through interministerial consultation. This consultation is well-embedded as a procedure within the Serbian Administration and happens routinely. While the RSL and the MoF must be consulted on all documents, the MEI must be consulted when proposals align the regulations of the Republic of Serbia with the *acquis*. The PPS must be consulted on laws and strategies,

¹⁸⁶ The PPS organised a public debate on the Draft Law on the Planning System of the Republic of Serbia in 2016. This draft defines strategies as policy documents for which public consultation should be obligatory. Articles 8 and 35 of the draft law are also relevant.

¹⁸⁷ The four ministries analysed were those responsible for agriculture, the economy, the environment and social affairs.

¹⁸⁸ MAEP: three laws related to environmental issues approved, all consulted upon (100%); Ministry of Economy: four laws approved, two consulted upon (50%); MAEP: three laws on agriculture policy approved, one consulted upon (33%); Ministry of Labour, Employment, Veteran and Social Affairs: one law approved, which was not consulted upon (0%). For these calculations, the laws that the Ministries of Agriculture and Environmental Protection developed were split into laws for agriculture policy and environmental policy.

¹⁸⁹ RoP of the Government, Article 41, paragraph 4.

¹⁹⁰ Finding based on analysis of the reports on the public debate submitted as part of the packages for the five last new Government-approved draft laws at the end of 2016.

¹⁹¹ The Law on Airports was not submitted for public debate, which is stated in the RIA. The findings are thus based on the analysis of the four remaining RIAs.

especially with regard to RIA quality. Other state administration bodies must be consulted when the subject matter of a draft act touches upon their competence¹⁹².

Interministerial consultation is a well-established process. The CoG bodies are consulted and have issued opinions for the five proposals analysed. Other ministries and organisations were involved in interministerial consultations as well. The Government receives only the individual opinions, however, and, since it is not required by the legal framework, no summary of the comments showing which were taken forward and on what grounds others were not. In the regulation, no minimum duration is set for interministerial consultation, only maximum deadlines for submitting opinions. These deadlines are not always adhered to; opinions were regularly provided past the deadline¹⁹³.

The RoP stipulate that a series of committees should act as filtering bodies before Government sessions, but no official conflict-resolution mechanism exists on a high administrative level¹⁹⁴. The Prime Minister's Chief of Staff regularly organises informal meetings with heads of ministerial cabinets, which the GSG also attends. According to interviews with representatives of the GSG, this practice is useful to discuss outstanding issues on draft policy documents, but the meetings play no formal role within the process of policy development. Mechanisms for conflict resolution within the administration are sub-optimal, as no CoG institution ensures effective conflict resolution when the interministerial consultation process has highlighted substantial differences between ministries.

Owing to the detailed requirements but only partially followed rules and no central quality assurance for public consultation, the value for the indicator 'Public consultation on public policy' is 2.

Public consultation on public policy						
This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation and the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved drafts laws.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective public consultation process	9/10
2. Quality assurance of the public consultation process	0/3
3. Regularity in publishing draft laws for written public consultation	1/4
4. Test of public consultation practices	8/24
Total¹⁹⁵	18/41

As a consequence of not having minimum durations set in regulations for interministerial consultations, as information about the results of consolidating the various opinions provided on drafts through

¹⁹² Article 46 of the RoP of the Government is also relevant.

¹⁹³ Information provided during interviews with sample ministries.

¹⁹⁴ Article 88 of RoP of the Government stipulates that the Government decides when there is a conflict between two or more ministries. The GSG is tasked with preparing the Government position in co-operation with the Ministry of Innovation and Public Administration and Local Self-Government and the RSL. The GSG is not tasked with mediating between the ministries that are in conflict or with trying to obtain agreement on a common position before the Government meeting.

¹⁹⁵ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-41=5.

consultation are not systematically reviewed and shared with the Government, and as Serbia lacks an administrative-level conflict resolution forum, the value for the indicator 'Interministerial consultation on public policy' is 3.

Interministerial consultation on public policy						
This indicator measures the adequacy of the regulatory framework for the interministerial consultation process and tests the system in practice for five draft laws.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective interministerial consultation process	5/9
2. Test of interministerial consultation practices	6/12
Total¹⁹⁶	11/21

The RoP establish the rules for public and interministerial consultation. Public consultation is conducted, but reporting does not include detailed explanations on whether or not suggestions were taken forward. Interministerial consultation is conducted systematically, but the Government does not receive information on opinions and the reasons for rejecting comments from government bodies. No minimum duration is set, and no official high-level administrative mechanism exists for resolving conflicts between ministries.

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

Serbia has detailed guidelines on how to structure and formulate legislation¹⁹⁷. The legislative drafting methodology sets out in detail how a law should be structured¹⁹⁸. The guidelines are available online¹⁹⁹.

The RoP of the Government define the responsibility of the RSL for checking the quality of legislation²⁰⁰. The RSL scrutinises all draft laws before they are placed on the agenda for adoption by the Government. The quality-assurance process for the legal conformity of draft laws is well embedded in the policy-development process²⁰¹.

The number of laws amended after one year of adoption is 4.5%. This indicates that laws are of sufficient quality and generally do not need to be amended shortly after implementation.

According to the 2017 Balkan Barometer survey, 40% of the responding businesses strongly or mostly agree that laws and regulations affecting their companies are clearly written, are not contradictory and do not change too frequently.

¹⁹⁶ Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-18=4, 19-21=5.

¹⁹⁷ Unified drafting methodology rules, Official Gazette No. 21/2010. Also relevant are the conclusion and methodology for drafting by-laws of 14 October 2010.

¹⁹⁸ Clarity in the rules does not mean there are no problems with legal drafting and translation of policies into legislation. In line with the 2015 assessment, this was acknowledged by the RSL staff.

¹⁹⁹ www.legislationline.org/documents/id/17150, Official Gazette, No. 21/2010.

²⁰⁰ RoP of the Government, Article 46, stipulates that the RSL has to receive every draft law and decree, fiscal strategy, development strategy, declaration and conclusion. Article 61 stipulates that the RSL is to safeguard the constitutionality of a law and prevent disharmony of the legal system.

²⁰¹ The packages for the five last new draft laws that the Government approved at the end of 2016 each included the RSL opinion.

The legal framework for publishing legislation is comprehensive and includes all relevant requirements, such as the deadline for publishing legislation, procedures for submitting it for publication and the types of legislation that need to be published²⁰². The Official Gazette is the competent body for publishing legislation.

All legal texts are available through a central online registry. Consolidated versions of legislation are published²⁰³ (i.e. updated texts into which amendments have been integrated). The basis for this is provided by the Law regulating the Official Gazette²⁰⁴. Consolidated texts are typically unofficial, however, because official consolidation can be done only if a law explicitly requires it.

According to the 2017 Balkan Barometer survey, 48% of the responding businesses strongly or mostly agreed that it is easy to obtain information about laws and regulations affecting their companies from the Serbian authorities.

As the Serbian legal requirements and guidance on legal drafting are defined by regulations and as legal quality control is embedded in the legislative process, the value for the indicator 'Predictability and consistency of legislation' is 4.

Predictability and consistency of legislation						
This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Availability of guidance documents on legal drafting	2/2
2. Quality assurance on legal drafting	3/3
3. Laws amended one year after adoption (%)	2/3
4. Perceived clarity and stability of government policy making by businesses (%)	0/2
Total²⁰⁵	7/10

As consolidated versions of primary and secondary legislation are not systematically made but requirements for publication of legal texts are defined by rules, the value for the indicator 'Accessibility of legislation' is 3.

²⁰² Law on the Publication of Laws and Other Regulations and Acts, Official Gazette No. 45/2013 and Regulation on the Establishment and Management of Legal Information System, Official Gazette No. 113/2013.

²⁰³ Secondary legislation is not amended, but new by-laws are adopted if changes are made.

²⁰⁴ Law on Publishing Laws and Other Regulations and Acts, Official Gazette No. 45, 22 May 2013.

²⁰⁵ Point conversion ranges: 0=0, 1-2=1, 3-4=2, 5-6=3, 7-8=4, 9-10=5.

Accessibility of legislation						
This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for public accessibility of legislation	6/6
2. Accessibility of primary and secondary legislation in practice	4/8
3. Perceived availability of laws and regulations affecting businesses (%)	0/2
Total²⁰⁶	10/16

Requirements for drafting laws are established, and quality control for legal texts is well embedded within the policy development process. All legislation is available electronically, but consolidated versions of laws are typically unofficial texts.

Key recommendations

Short-term (1-2 years)

- 1) Ministries should develop internal rules to establish the process for policy development and legal drafting.
- 2) The MEI and the MoF should jointly support line ministries in developing realistic costing for the most important transposition cases.
- 3) The Government should develop a practice that charges high-level civil servants with resolving conflicts before the political level becomes involved. The administration should draft integral overviews which present the comments received during interministerial consultations and explain the manner in which they were addressed.
- 4) The Government should submit RIAs for its draft proposals to the Parliament.
- 5) The Government should adjust its RIA system, increase the quality of policy analysis and prepare by-laws with substantial effects through RIAs. It should make consultations with external stakeholders an integral part of policy analysis, make draft RIAs available for public consultation, and align the processes for developing FIAs and RIAs.

Medium-term (3-5 years)

- 6) The Parliament and the Government should ensure that consolidated texts of legislation are routinely compiled when a law is amended.
- 7) Line ministries should provide costing assessments for all EU transpositions, and the MEI and the MoF should assure the quality of these costings.
- 8) The Government should broaden the mandate of the PPS in order to guarantee that only RIAs of acceptable quality are allowed on the agenda of Government meetings.

²⁰⁶ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

3

Public Service and
Human Resource
Management

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

Since 2015, the scope of the civil service has improved, thanks to the adoption of two important pieces of legislation: the Law on the Salary System in the Public Sector²⁰⁷ and the Law on the Police²⁰⁸. The Law on the Salary System in the Public Sector introduces a general salary framework for all public sector employees. The Law on the Police applies the Civil Service Law (CSL)²⁰⁹ to the majority of Ministry of Interior (Mol) staff who carry out horizontal administrative functions, and introduces modern human resource management (HRM) principles to police officers. However, the main weaknesses of the CSL remain, namely the limited application of recruitment and selection requirements to all civil service positions and the lack of a clear, practical distinction between political and senior civil service posts, as the majority have still not been appointed on the basis of merit.

Shortcomings persist in the implementation of the legal framework, policies and institutional set-up. The system is formally in place, but practical difficulties have not been addressed. Political responsibility and co-ordination remain within the Ministry of Public Administration and Local Self-Government (MPALSG), but it lacks sufficient capacity. The remit of the Human Resource Management Service (HRMS) to implement the CSL is too limited. The capacity of the Administrative Inspection (AI) remains low. Data in the Human Resource Management Information System (HRMIS) is not adequately updated, and the HRMIS is not connected with other national databases.

Although the CSL provides a solid formal basis for civil service recruitment, promotion and termination of employment, large sections of the civil service still apply their own recruitment rules.

The difference between political appointees and senior civil servants is well defined legally, as are the grounds for internal and external recruitment and selection based on merit, equal opportunities and open competition. In practice, however, direct and indirect political influence on recruitment of senior managers in the civil service has persisted since the adoption of the CSL in 2005. Even though the High Civil Service Council (HCSC), with the support of the HRMS, has made a significant effort to ensure merit-based recruitment for senior positions, the number of properly appointed senior managerial positions has decreased.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement²¹⁰ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

The new Law on the Maximum Number of Employees in the Public Sector²¹¹ was adopted in July 2015, and implementation of this new rightsizing framework began in early 2016. In June 2017, the

²⁰⁷ Official Gazette Nos. 18/16 and 108/16.

²⁰⁸ Official Gazette No. 6/16.

²⁰⁹ Official Gazette Nos. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009 and 99/2014.

²¹⁰ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

²¹¹ Official Gazette Nos. 68/15 and 81/16.

Government adopted the Decision on the Maximum Number of Employees in the Public Sector for 2017²¹², which sets personnel ceilings for each public administration body.

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

The main progress has occurred at the level of new legislation, through the adoption of two pieces of legislation: the Law on the Salary System in the Public Sector and the Law on the Police.

In February 2016, the Parliament adopted the very comprehensive Law on the Salary System in the Public Sector, which covers all 509 943 public-sector employees. The Law increases the transparency of the pay system and addresses considerable variations in salaries for similar jobs throughout the public service. The new salary system is still not being implemented, and important steps need to be taken in that regard (comprehensive job catalogues and separate laws for different categories need to be adopted in 2017).

The new Law on the Police, adopted in January 2016, states that a large (and still undetermined) number of administrative personnel of the MoI will become part of the civil service. The result, the application of the Law on Civil Servants to the non-uniformed staff of the MoI, was planned for the beginning of 2017, but was later postponed to the beginning of 2018. On the positive side, implementation of improved recruitment tools, such as mandatory competitions for recruitment for police officers, as well as career development, took place in 2016.

The institutional set-up does not provide for consistent implementation of the legislation on the civil service, and the roles and competences of the MPALSG and the HRMS are still not adequately divided. Fragmented application of the CSL exists with respect to recruitment and selection for civil service positions. In practice, the distinction between political and senior civil service posts is blurred, since the majority of these positions are still not being filled on a merit basis. Implementation monitoring has not improved, because AI still lacks capacities. The HRMIS register is still not adequately updated and is not connected to other national databases.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports²¹³

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	3	3
	Extent to which the policy and legal frameworks for professional and coherent public service are established and implemented.	4	4
	Extent to which the institutional set-up enables consistent HRM practices across the public service.	2	2

²¹² Official Gazette No. 61/2017

²¹³ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

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

No progress has been made in professionalising the public service through good managerial standards and HRM practices. The system for civil service recruitment, demotion and termination of employment remains formally solid, but is not sufficient to safeguard the merit principle. In particular, certain sections of the civil service have their own recruitment rules, the application procedure is overly bureaucratic and the capacities of the competition committees are weak. The merit principle is undermined by the discretion accorded to heads of institutions to select candidates from a closed list. It is also hampered by the exemption from normal recruitment and selection processes for temporary personnel, who constitute around 10% of the civil service. In practice, direct and indirect political influence on senior managerial appointments in the civil service is not prevented, and the vast majority of senior civil servants are not appointed in keeping with legal provisions, as they are in acting positions. Even when a number of recruitment competitions have been conducted, the selected candidates have not been appointed by the Government.

The disputed provision in the CSL on “serious disturbance”, which might be used to justify early termination of a senior manager, remains in place.

The comprehensive reform of the pay system has not yet been implemented, despite the adoption of the new Law on the Salary System in the Public Sector, and the system remains unchanged. Important legislative activities have not been conducted, and the job catalogues have not been prepared. Responsibilities for the professional development of civil servants have not been clearly delegated, practical difficulties persist, and funding for this important component of human-resource development continues to be deficient. Performance appraisals remain a formality, with no practical application to salaries, promotions, transfers and terminations of employment.

The Anti-Corruption Agency (ACA) is preparing a new draft law on the ACA to replace the current one. The objective is to further strengthen the independence, competences and capacities of the ACA and to address several specific shortcomings in the rules that currently hamper effective application of the current Law.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the recruitment of public servants is based on the merit principle in all its phases.	3	3
	Extent to which the termination of employment of public servants is based on merit.	3	3
	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2	2
	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	4	4
	Extent to which the training system of public servants is in place and applied in practice.	3	3
	Extent to which the performance appraisal system of public servants is in place and applied in practice.	3	3

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	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	3	3
	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	4	4
Quantitative	Annual turnover of civil servants at the level of central administration.	3.56%	2.34% ²¹⁴
	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	82.9%	Not available ²¹⁵
	Percentage of women in senior managerial positions in the civil service at the level of central administration.	26.8%	36% ²¹⁶
	Annual turnover of senior managerial civil servants at the level of central administration.	Not available	8.64%. ²¹⁷
	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	5.1%	9.1%

²¹⁴ 2016 Report on Implementation of Administrative Procedures.

²¹⁵ 95.93% by public announcements. No data available on the outcome of the procedures.

²¹⁶ As provided by the HRMS.

²¹⁷ In 2016, 30 high-level civil servants were dismissed (out of 347 positions).

2. ANALYSIS

This analysis covers seven Principles for the public service and human resource management area grouped under two key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators²¹⁸, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

Policy, legal and institutional frameworks for public service

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The legal basis for establishing the horizontal and vertical scope of the civil service is solid. The key laws regulating the scope of the civil service are the Law on State Administration (LSA)²¹⁹, the CSL, and the Law on the Salaries of Civil Servants and Employees²²⁰ (which should be aligned with the new Law on the Salary System in the Public Sector by the end of 2017). Several governmental decrees also support CSL implementation: the Decree on the Classification of Posts and Criteria for Job Descriptions²²¹; the Decree on Carrying out Internal and Open Competitions for Filling Posts in State Bodies²²²; the Decree on Preparation of the Personnel Plan in State Bodies²²³; the Decree on Performance Appraisal²²⁴; the Decree on the Programme and Manner of Passing the State Professional Exam²²⁵; the Decree on

²¹⁸ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

²¹⁹ Official Gazette Nos. 79/2005, 101/2007, 95/2010 and 99/2014.

²²⁰ Official Gazette Nos. 62/2006, 63/2006, 115/2006, 101/2007, 99/2010, 208/2013 and 99/2014.

²²¹ Official Gazette Nos. 117/2005, 108/2008, 109/2009, 95/2010, 117/2012, 84/2014, 132/2014, 28/2015 and 102/2015.

²²² Official Gazette Nos. 41/2007 and 109/2009.

²²³ Official Gazette No. 8/2006.

²²⁴ Official Gazette Nos. 11/2006 and 109/2009.

²²⁵ Official Gazette Nos. 16/09 and 84/2014.

Compensation and Severance Pay of Civil Servants and Employees²²⁶; and the Decree on Professional Development of Civil Servants²²⁷.

The material scope²²⁸ of the civil service is well defined, encompassing all employment relations and management of civil servants. The CSL and the supporting secondary legislation regulate all necessary HRM aspects, such as: 1) the scope and principles of the civil service; 2) classification; 3) recruitment and selection of civil servants, including in senior managerial positions; 4) the rights and obligations of civil servants, including the integrity system; 5) remuneration (the main principles and components of the salary system); 6) professional development, including performance appraisal, training, mobility and promotion; 7) disciplinary procedures, including suspension from the civil service; 8) termination of employment, including demotion and redundancy; and 9) central co-ordination of the civil service.

The horizontal scope of the civil service includes: 1) the structure of the core executive (ministries, internal bodies of ministries, bodies reporting to ministries [i.e. special organisations] and support structures to the President of the Republic); 2) the judiciary services; 3) the support structures of the Parliament; and 4) independent constitutional bodies reporting directly to the Parliament. This corresponds to the definitions of public service presented in the Principles of Public Administration.

However, several important sections of the civil service have special legislation regarding recruitment and selection, with an ensuing impact on the scope of the civil service. These are the Tax Administration, the Customs Administration and the Administration for Execution of Criminal Sanctions, which are part of the civil service, but have specific legislation for recruitment and selection procedures of civil servants. This specific legislation is generally aligned with the Principles, except that the recruitment panels do not include HRMS members, which would guarantee independent oversight of the selection procedures. The Customs Administration has never been part of the general civil service framework for recruitment and selection; it is governed by a special Customs Law, adopted in 2003²²⁹, before enactment of the CSL. The Tax Administration and the Administration for Execution of Criminal Sanctions were initially included within the remit of the CSL, but were subsequently excluded through the adoption of special sectoral legislation²³⁰ regulating recruitment and selection. As the number of employees in the Tax Administration²³¹, the Customs Administration²³² and the Administration for Execution of Criminal Sanctions²³³ is high – accounting for around one-third of all civil servants – there is obvious fragmentation of recruitment and selection procedures in the civil service system.

²²⁶ Official Gazette Nos. 97/07 and 84/2014.

²²⁷ Official Gazette Nos. 25-27/2015.

²²⁸ The material scope should clearly establish all general provisions relevant to the employment relations of public servants and management of public service: OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p.41, <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>.

²²⁹ Official Gazette Nos. 73/2003, 61/2005, 85/2005, 62/2006 and 63/2006. A new Customs Law was adopted in 2010 and amended in 2016. Although the new Customs Law does not regulate the status of employees in the Tax Administration or other HRM functions (such as recruitment procedures, appraisal, performance management and professional development), it foresees that Articles 252-329 of the old law (from 2003) are still in force (see Article 310).

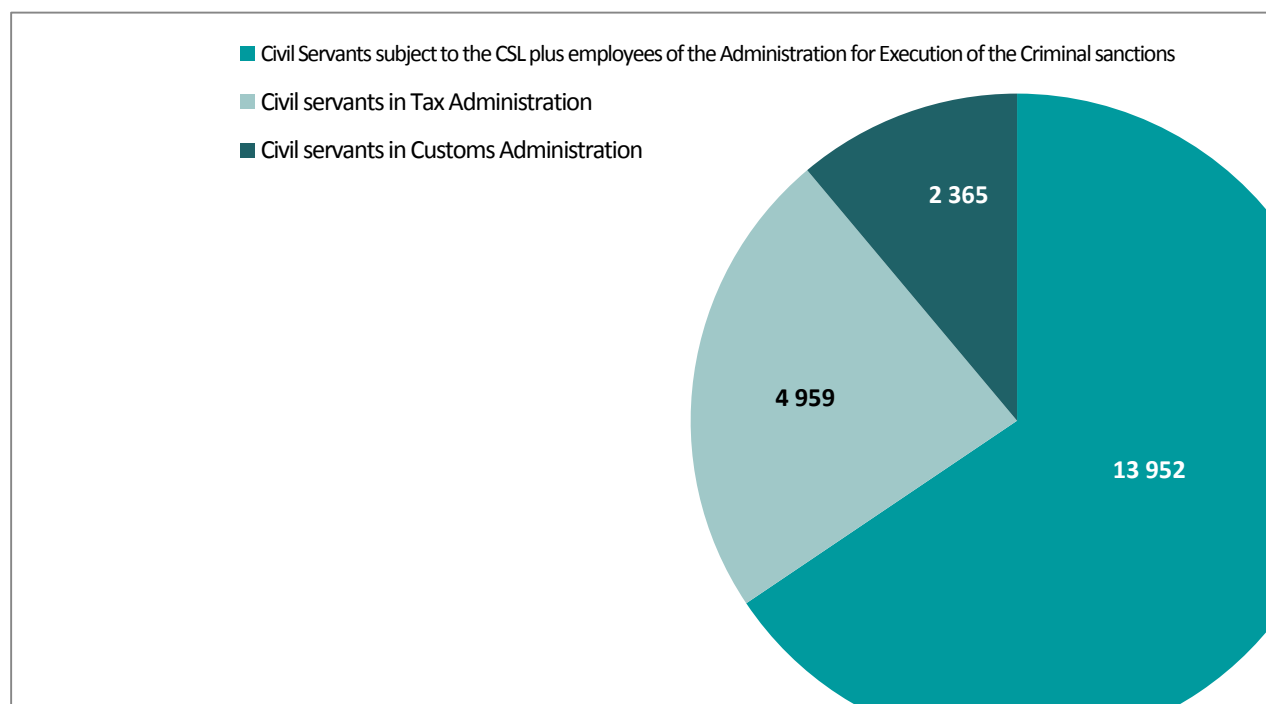
²³⁰ Law on Amendments of the Law on Tax Procedure and Tax Administration, Official Gazette No. 20/2009; Law on Execution of Criminal Sanctions, Official Gazette No. 55/2014.

²³¹ 4 959 Civil servants in Tax Administration. Data provided by HRMS.

²³² 2 365 Civil servants in Customs Administration. Data provided by HRMS.

²³³ Data is not available due to confidentiality, so the ratio cannot be calculated exactly.

Figure 1. Fragmentation of the general civil service framework with respect to recruitment and selection.



Source: Data received from Human Resource Management Service²³⁴.

It should be noted that recruitment procedures for senior civil service positions in these institutions are aligned with the CSL.

The salary system, described in the 2016 SIGMA Monitoring Report²³⁵, has remained unchanged. Implementation of the Law on the Salary System in the Public Sector, which will require all public sector institutions to align their remuneration systems with the overall public sector remuneration framework, has not yet begun. The separate laws for civil servants, local-government civil service, the police and the army are in the drafting phase as are job catalogues.

The integration of the administrative staff of the MoI into the civil service is also still in progress. The MoI (with a maximum of 42 850 systemised staff; 41 980 positions filled at the end of 2016) is the biggest exception to the civil service system, as the CSL rules have never been applicable, even to those personnel who perform classic administrative functions. However, the Law on the Police (2016) introduces important distinctions among civil servants, employees and police officers at the MoI. The Law requires the Ministry to adopt the new Rulebook on Internal Organisation and Systematisation, which stipulates that a significant number of positions will be converted to civil service positions, fully subject to the CSL. Another significant change is the introduction of improved HRM principles, such as mandatory competition for recruitment²³⁶ of police officers (around 32 000 staff). Secondary legislation, on appraisal and career development, is still under preparation. Finally, the new Law on Salaries in the Public Sector provides that the staff of the MoI, including police officers, will be included in the overall public sector remuneration framework. This will align the remuneration of police officers with other public sector employees²³⁷.

²³⁴ Total number of civil servants at the end of 2016 was 21 276.

²³⁵ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

²³⁶ Regulation on Conducting Public Recruitment Procedure in the MoI, Official Gazette No. 72/16.

²³⁷ This requires additional changes in legislation regulating police officers' salaries.

The vertical scope of the civil service is well defined in law: both the LSA and the CSL draw a clear distinction between civil servants who perform administrative functions and State employees who perform technical functions. Special legal protection is provided only to civil servants; auxiliary functions fall under the general employment regime.

A clear legal distinction is also made between political posts and senior civil service posts. The positions of minister and state secretary are purely political posts. A state secretary in a ministry is appointed and dismissed by the Government on a minister's proposal; the state secretary's mandate terminates at the same time as the minister's mandate²³⁸. The positions of secretary general of the ministry and assistant minister are senior civil service posts. Senior civil servants do not have a permanent position, but are appointed by the Government for a period of five years²³⁹. This exceeds the mandate of any individual Government and thus reduces the risk of politicisation. To allow ministers to obtain "political advice", the LSA allows ministers to appoint up to three special advisors²⁴⁰, who are part of the ministerial cabinet. Despite the clear legal distinction between political posts and senior civil service posts, more than two-thirds of senior civil service posts have still not been filled on a competitive basis since the CLS began to be implemented (more details under Principle 4).

Although the legislative changes have reduced the fragmentation of the public service, they have not been implemented in practice. As a result, the value for the indicator 'Adequacy of the scope of public service' is 2.

²³⁸ LSA, Article 24.

²³⁹ LSA, Article 25, paragraph 3; Article 26, paragraph 3.

²⁴⁰ LSA, Article 27.

Adequacy of the scope of public service

This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service²⁴¹, and whether it is consistently applied across the public sector.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Clarity in the legislative framework of the scope of the civil service	2/2
2. Adequacy of the horizontal scope of the public service	0/6 ²⁴²
3. Comprehensiveness of the material scope of civil service legislation	2/2
4. Exclusion of politically-appointed positions from the scope of the civil service	2/2
5. Clarity of the lower division line of the civil service	1/1
Total²⁴³	7/13

The scope of the civil service has improved with the adoption of the Law on the Salary System in the Public Sector and the Law on the Police. The Law on the Salary System in the Public Sector introduces a general salary framework for all public sector employees and hence enhances the coherence of the remuneration framework for all civil servants. The Law on the Police enables the application of the CSL to the great majority of MoI staff who carry out horizontal administrative functions and introduces modern HRM principles to the police. Fragmented application of the CSL persists with respect to recruitment and selection for civil service positions. In practice, the majority of senior managers in the civil service are not hired on a merit basis, as the Government is still not filling these positions on a permanent basis.

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

The policy for civil service development has not changed in the assessment year. The PAR Strategy adopted in January 2014, and followed by an Action Plan for PAR Strategy Implementation 2015-2017, is being implemented²⁴⁴.

The last strategic document on Professional Development of Civil Servants expired in 2015 and has not been replaced²⁴⁵. The National Academy, the new training institution slated to be launched in 2016, has still not been established. The Law on National Academy is in the drafting stages, and the CSL

²⁴¹ In OECD (2014), *The Principles of Public Administration*, OECD, Paris, hyperlink?, SIGMA clarifies that it applies the narrow scope of public service covering: 1) ministries and administrative bodies reporting directly to the government, prime minister or ministers (i.e. the civil service, strictly speaking); administrations of the parliament, the president and the prime minister; 2) other administrative bodies at the level of the central administration, if they are responsible for safeguarding the general interests of the state or other public bodies; and 3) independent constitutional bodies reporting directly to the parliament. The scope of public service thus does not cover institutions at the level of the sub-national administration and special types of public service, elected and politically appointed officials, or support and ancillary personnel in the administrative bodies.

²⁴² Data provided only for four groups out of the required eight.

²⁴³ Point conversion ranges: 0-3=0, 4-5=1, 6-7=2, 8-9=3, 10-11=4, 12-13=5.

²⁴⁴ Annual Report 2016 (English version): http://mduls.gov.rs/doc/Annual_AP2016%20eng%20novo.pdf.

²⁴⁵ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p. 12, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

should be amended, but the Government has not yet adopted as an official proposal the necessary draft amendments to change the CSL.

The rest of the activities described in the Action Plan for PAR Strategy Implementation 2015-2017 are in the preparation or drafting phase, and are therefore not progressing as planned. Although the Law on the Salary System in the Public Sector was adopted during the previous reporting period²⁴⁶, its implementation is dependent on new legislation relative to civil servants, local-government civil servants, the police, the army, etc., which is still in the drafting stage.

Primary and secondary civil service legislation is generally in line with administrative-law principles²⁴⁷ and merit principles, and the degree of regulation (in primary and secondary legislation) is adequately balanced.

Policy making, implementation and monitoring are not the responsibility of one central institution. The MPSALG is responsible for policy making and co-ordination, while the AI is responsible for monitoring CSL implementation. The number of administrative inspectors and the main problems they encounter remain unchanged since 2015²⁴⁸. The HRMS still lacks sufficient capacity to implement the CSL²⁴⁹. The basic recommendation of the Baseline Measurement Report to strengthen the synergy between the MPALSG and the HRMS remains unchanged.

The data in the HRMIS register is not regularly updated and is not connected to other national databases. The HRMS does not have the authority to ensure the accuracy of the HRMIS register²⁵⁰.

Implementation of modern HRM tools remains limited at the level of individual institutions, where the responsible HRM units or individuals still operate primarily as traditional “legal and personnel services”. As the number of employed civil servants is decreasing, institutional responsibilities are growing, and the distribution of tasks to individual civil servants is not properly allocated.

Independent oversight of the public service is provided by the AI, the Government Appeals Commission and the Administrative Court. The work of the Ombudsman, which receives only a small number of complaints regarding the civil service system, also provides some independent oversight.

Considering the factors analysed above, the value for the indicator ‘Adequacy of the policy, legal framework and institutional set-up for professional and human resource management in public service’ is 2.

²⁴⁶ *Ibid.*

²⁴⁷ *Idem*, p. 13.

²⁴⁸ SIGMA recommended an increase in inspection capacities in the 2015 Baseline Measurement Report. The same problems were also highlighted in OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p.14, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

²⁴⁹ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p.13, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

²⁵⁰ *Ibid.*

Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service

This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Establishment of political responsibility for the civil service in the legal framework	1/2
2. Quality of public service policy document	4/4
3. Implementation and monitoring of public service policy	1/4 ²⁵¹
4. Right balance between primary and secondary legislation	2/2
5. Existence of a central, capable co-ordination body	2.5/4
6. Professionalism of HRM units in civil service bodies	0/2 ²⁵²
7. Existence of a functional HR database with data on the civil service	1/4
8. Availability and use of data on the civil service	0/5 ²⁵³
Total²⁵⁴	11.5/27

The legal framework, policies and institutional set-up are in place, but implementation and monitoring are not placed within one central institution, and co-ordination is insufficient. While the MPALSG continues to be responsible for policy and co-ordination, responsibility for monitoring implementation rests with the AI, which lacks capacities. The HRMS still lacks sufficient power to implement the CSL. The data in the HRMIS register is not adequately updated or connected to other national databases.

Key recommendations

Short-term (1-2 years)

- 1) The Government should improve the institutional set-up to ensure consistent implementation of the legislation on the civil service and enhance and define the roles and competences of the MPALSG and the HRMS to ensure effective implementation of the legislation.
- 2) The Government, through the MPALSG and the HRMS, should ensure that public authorities regularly update information in the HRMIS.
- 3) The MoI, through MPALSG and the HRMS, should ensure application of the Law on the Police by converting the civil service positions within the MoI that will be fully subjected to the CSL.

Medium-term (3-5 years)

- 4) The MPALSG should consider and prepare proposals to amend the Law on Civil Servants, such that the rules on recruitment and selection become fully applicable to the staff of the Tax

²⁵¹ No data provided.

²⁵² Ditto.

²⁵³ Ditto.

²⁵⁴ Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-23=4, 24-27=5.

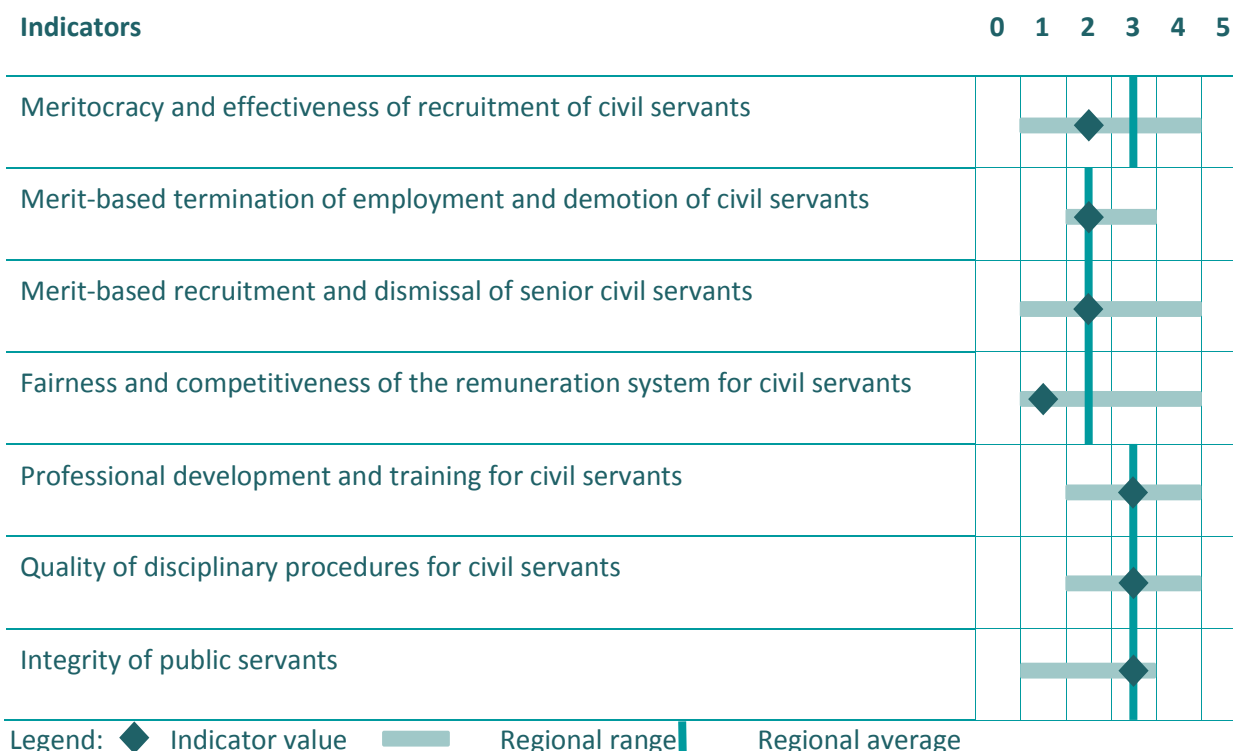
Administration, the Customs Administration and the Administration for Execution of Criminal Sanctions.

- 5) The Government (the MPALSG and the MoF) should ensure that the HRMIS is linked to the new salary registry and other relevant registries to improve accuracy and avoid data duplication.
- 6) The MPALSG should increase the capacity of the AI to monitor implementation of the CSL.

Human resource management

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 legal basis for civil service recruitment and selection is reasonable, with some deficiencies²⁵⁵. Implementation is overly bureaucratic and costly²⁵⁶, and there have been no amendments to existing primary or secondary legislation. The new Law on General Administrative Procedure (LGAP)²⁵⁷ stipulates that the administrative body shall not request documents from candidates if the data is contained in official registers. While this provision aims to increase the efficiency of the procedure, it

²⁵⁵ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p. 51, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>; OECD (2016), *Monitoring Report: Serbia*, OECD, Paris, p. 17, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

²⁵⁶ For example, all documents, including those from public registers, have to be submitted by applicants and stamped by a notary.

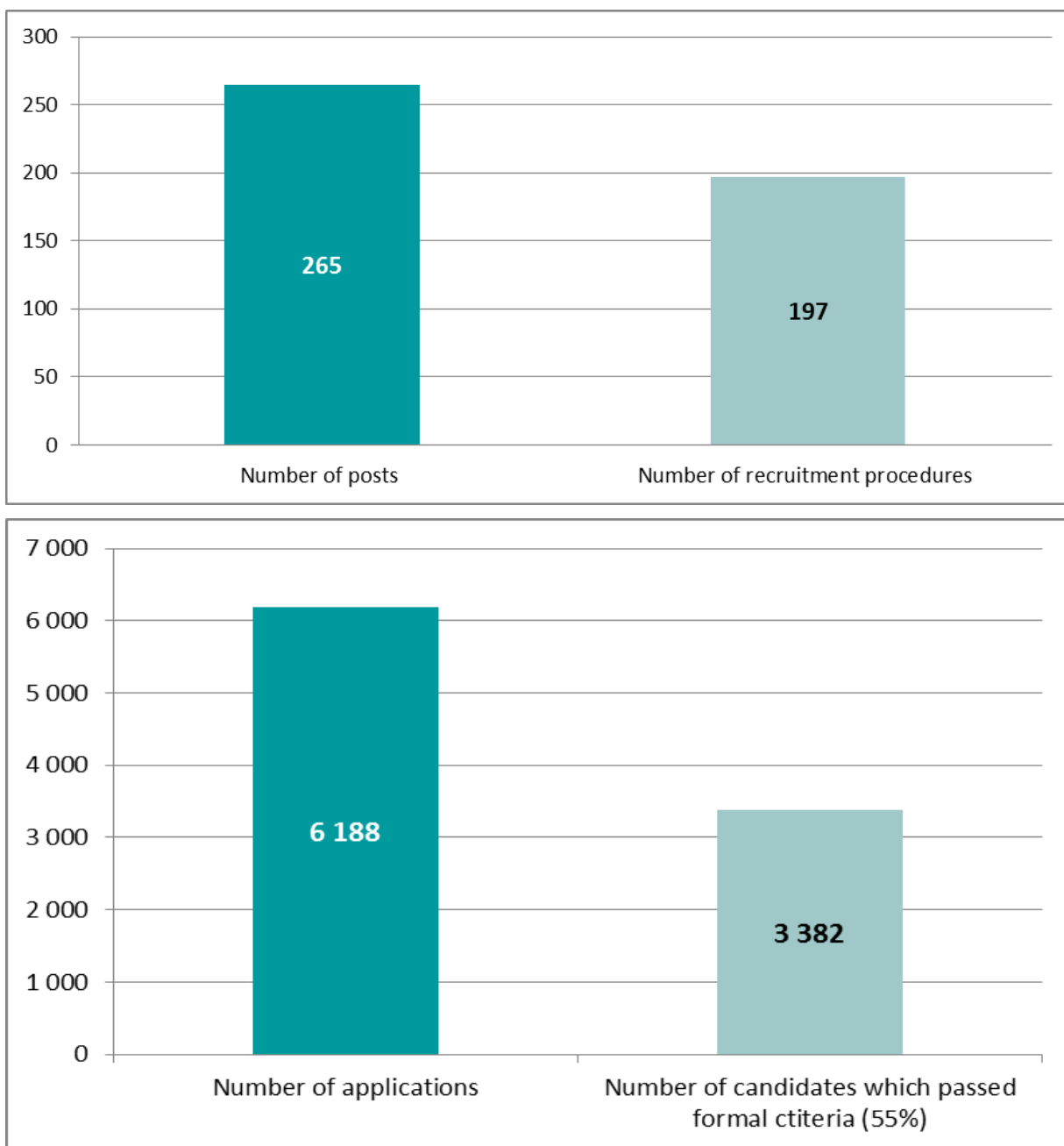
²⁵⁷ Official Gazette No. 18/16, Articles 3 and 103.

often prolongs it in practice²⁵⁸. All other identified shortcomings remain the same as in previous years, including the low level of professional preparation for recruitment committee members for running recruitment procedures (apart from the HRMS representative), as only two training sessions in this area were organised in 2016²⁵⁹. According to the HRMS, there were 197 recruitment procedures (for 265 posts) in 2016, with 6 188 applications (averaging 31.41 candidates per procedure). Out of the total number of applications, 3 382 candidates (55%) fulfilled the formal criteria to enter the procedure (Figure 2).

²⁵⁸ The gap between legal obligation and technical preparedness leads to occasional paradoxes. Administrative processes can now take longer, because administrators often request data and documents through traditional channels, like paper mail. To save time, citizens are sometimes encouraged to revert to obtaining all the information themselves.

²⁵⁹ The HRMS member of the panel also provides *ad hoc* guidance for each recruitment panel meeting.

Figure 2. Recruitment procedures



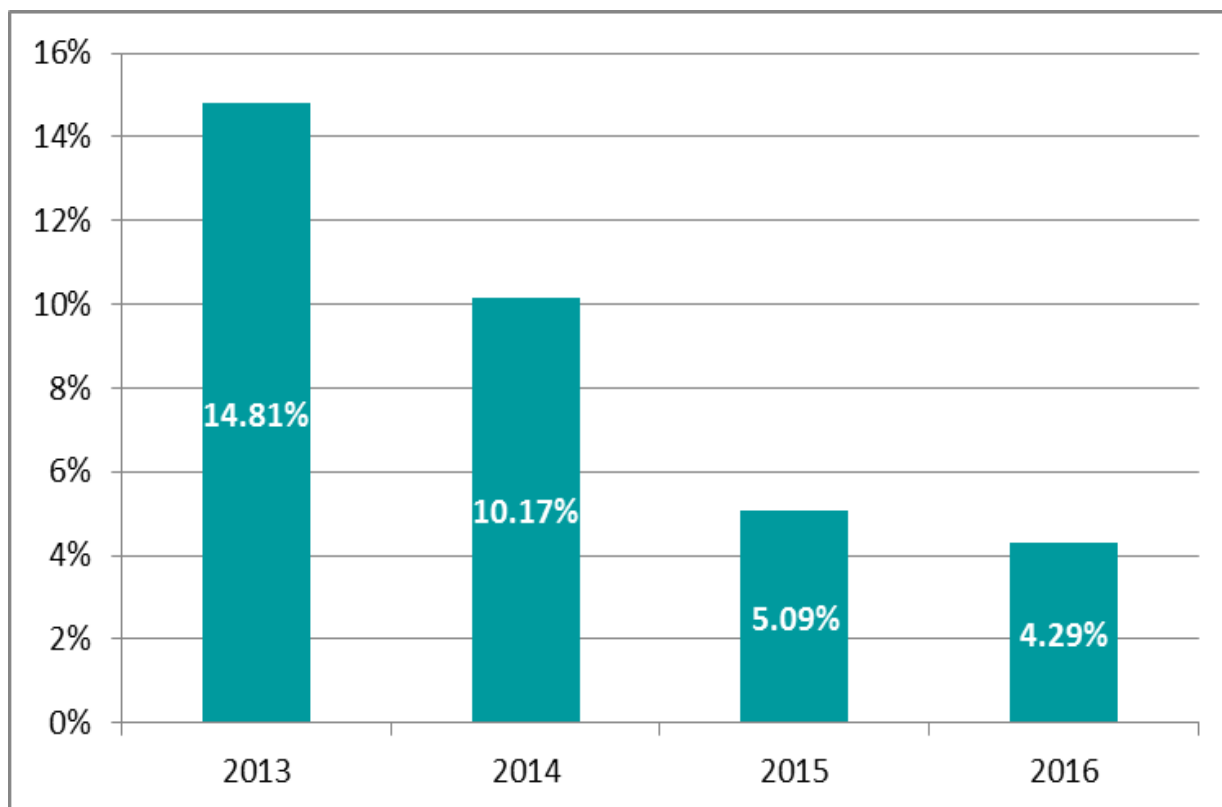
Source: Data provided by Human Resource Management Service.

The fact that there is no requirement for the head of the institution to select the highest-ranked candidate remains the main deficiency in the final selection, undermining the credibility of the recruitment process and opening it up to the possibility of political interference. The head of the institution does not need to provide a justification and has no deadline. Where senior managerial positions are concerned, the head of an institution can even reject the list of three candidates provided by the selection committee and request a new competition within the prescribed period of 30 days from submission of the list. In such cases, the head of the institution often does not provide an explanation, although this is legally required²⁶⁰. The previous appointee continues as acting head, or the head of the institution appoints a civil servant to perform the job on a temporary basis.

²⁶⁰ According to an interview with HRMS on 6 March 2017.

Non senior-managerial candidates who are not appointed have the right to appeal recruitment decisions to the Government Appeals Commission²⁶¹. In 2016, recruitment and selection appeals amounted to only 4.29% of the total number of appeals – slightly lower than in 2015 (5.09%), and significantly lower than in 2013 (when recruitment and selection cases constituted 14.81%) and 2014 (10.17%) (Figure 3)²⁶². Appointed positions were filled through 55 selection procedures, with a total of 288 applications²⁶³ and 13 appeals.

Figure 3. Recruitment and selection appeals



Source: Data provided by Human Resource Management Service.

One of the consequences of the adoption of the Law on the Maximum Number of Employees in the Public Sector²⁶⁴ in July 2015 was the initiation of the public sector rightsizing process, which is still ongoing. At the end of 2016, there were 22 699 civil servants employed (including 7 827 in the Customs Administration, the Tax Administration, the Administration for Execution of Criminal Sanctions and the Diplomatic Service). However, there is no data on the annual turnover of civil servants.

The issue of filling civil service positions on a temporary employment basis, which is not subject to merit-based recruitment, remains unchanged²⁶⁵. The Law on the Maximum Number of Employees in the Public Sector²⁶⁶ provides that the number of temporary employees is less than 10% of the total number of employees in each institution. Nevertheless, the widespread use of temporary employment throughout the civil service represents a significant obstacle for merit-based recruitment.

²⁶¹ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p.18, <http://www.sigmaxweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

²⁶² *Ibid.*

²⁶³ According to HCSC data.

²⁶⁴ Official Gazette Nos. 68/15 and 81/16.

²⁶⁵ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, pp. 18-19, <http://www.sigmaxweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

²⁶⁶ Official Gazette Nos. 68/15 and 81/16.

The legal framework and procedures for performance appraisal, promotion, dismissal and termination of employment are also regulated by the Law on Civil Servants. It is important to emphasise that under the current legislation, an unsatisfactory performance appraisal, followed by a negative performance obtained during an “extraordinary appraisal” conducted 30 days later, can be valid grounds for dismissal. Clearly, this raises questions on the availability of adequate guarantees for ensuring merit-based decisions, as 30 days is obviously too short a period for reassessment. However, demotion and termination of employment are rare: according to the data provided by the selected State administration bodies, no civil servants were demoted or dismissed in the last two years. Civil servants have the right to appeal against unfair termination or demotion, as well as appeal an unsatisfactory appraisal, to the Government Appeals Commission. However, data on appeals against termination or demotion is not available²⁶⁷ (it is available for appeals against performance appraisals).

The principles of equality and non-discrimination are embedded in the CSL.

Considering all the factors analysed above, the value for the indicator ‘Meritocracy and effectiveness of recruitment of civil servants’ is 2, and the value for the indicator ‘Merit-based termination of employment and demotion of civil servants’ is also 2.

Meritocracy and effectiveness of recruitment of civil servants						
This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job-seekers and performance of the public sector.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of recruitment	
1. Adequacy of the legislative framework for merit-based recruitment for civil service positions	10/18
2. Application in practice of recruitment procedures for civil service positions	9/18
Performance of recruitment practices	
3. Time required to hire a civil servant	0/2 ²⁶⁸
4. Average number of eligible candidates per vacancy	4/4
5. Effectiveness of recruitment for civil service positions	0/4 ²⁶⁹
6. Retention rate of newly hired civil servants (%)	0/4 ²⁷⁰
Total²⁷¹	23/50

²⁶⁷ No data provided.

²⁶⁸ Based on the HR units’ panel discussion.

²⁶⁹ HRMS provided data only for the procedures started during the assessment year. It does not have data on procedures finalised and new civil servants appointed.

²⁷⁰ No data provided.

²⁷¹ Point conversion ranges: 0-7=0, 8-16=1, 17-25=2, 26-35=3, 36-43=4, 44-50=5.

Merit-based termination of employment and demotion of civil servants

This indicator measures the extent to which the legal framework and the human resource management practices support fair termination of employment in the civil service and fair demotion of civil servants wherever it is envisioned in the legislation. The indicator does not deal with the termination of employment and demotion of senior civil servants.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
Legal framework and organisation of dismissals and demotions	
1. Objectivity of criteria for termination of employment in civil service legislation	5/6
2. Objectivity of criteria for demotion of civil servants in the legislative framework	2/2
3. Right to appeal dismissal and demotion decisions to the courts	2/2
Fairness and results of dismissal practices	
4. Dismissal decisions confirmed by the courts (%)	0/4 ²⁷²
5. Implementation of court decisions favourable to dismissed civil servants (%)	0/4 ²⁷³
Total²⁷⁴	9/18

The CSL establishes a solid foundation for a merit-based, coherent and transparent system for civil service recruitment, demotion and dismissal. However, legislation alone is not sufficient to safeguard the merit principle, given that certain parts of the civil service apply their own recruitment rules, the application procedure is overly bureaucratic and the capacities of the competition committees are weak. The merit principle is undermined by the discretionary power of institution heads to select one of the candidates from a closed list, as well as by the exemption of temporary personnel (who constitute around 10% of the civil service) from the normal recruitment and selection process.

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

No formal legislative changes were made to the status and position of senior managerial posts within the scope of the civil service²⁷⁵, whose number slightly decreased to 347 positions (down from 365 in 2015, 355 in 2014 and 368 in 2013). The lower number of senior managerial positions corresponds to the decreasing overall number of civil servants.

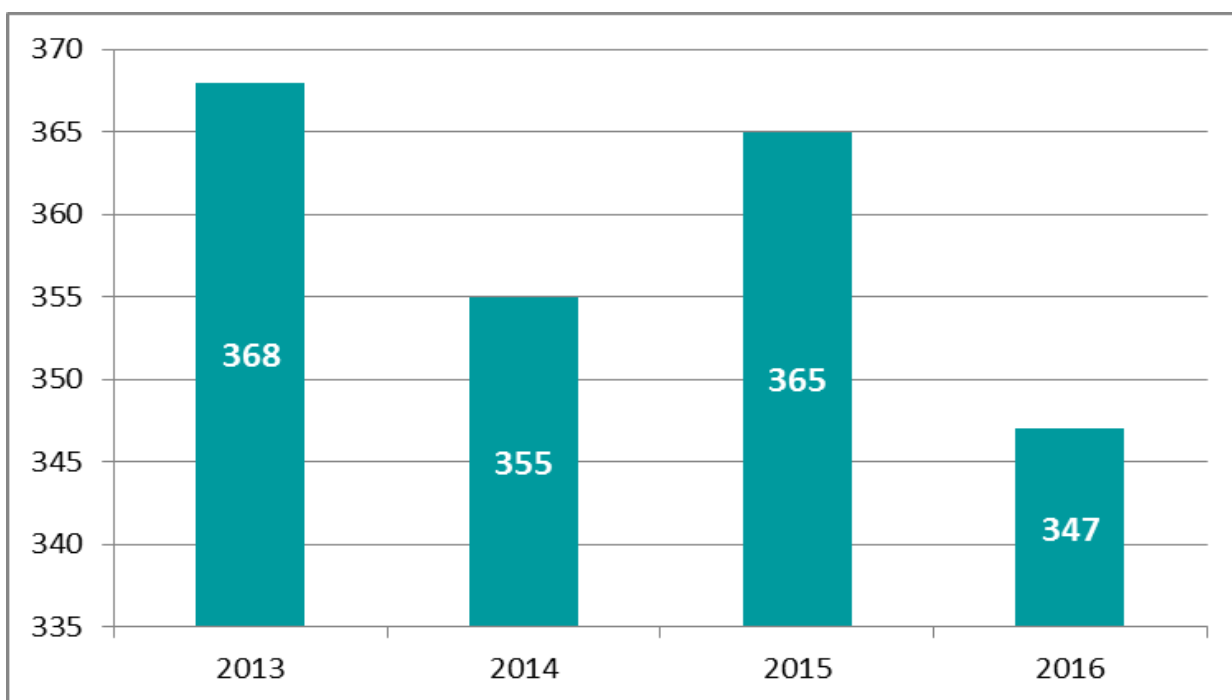
²⁷² No data provided.

²⁷³ Ditto.

²⁷⁴ Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

²⁷⁵ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p.22, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

Figure 4. Number of senior civil service positions



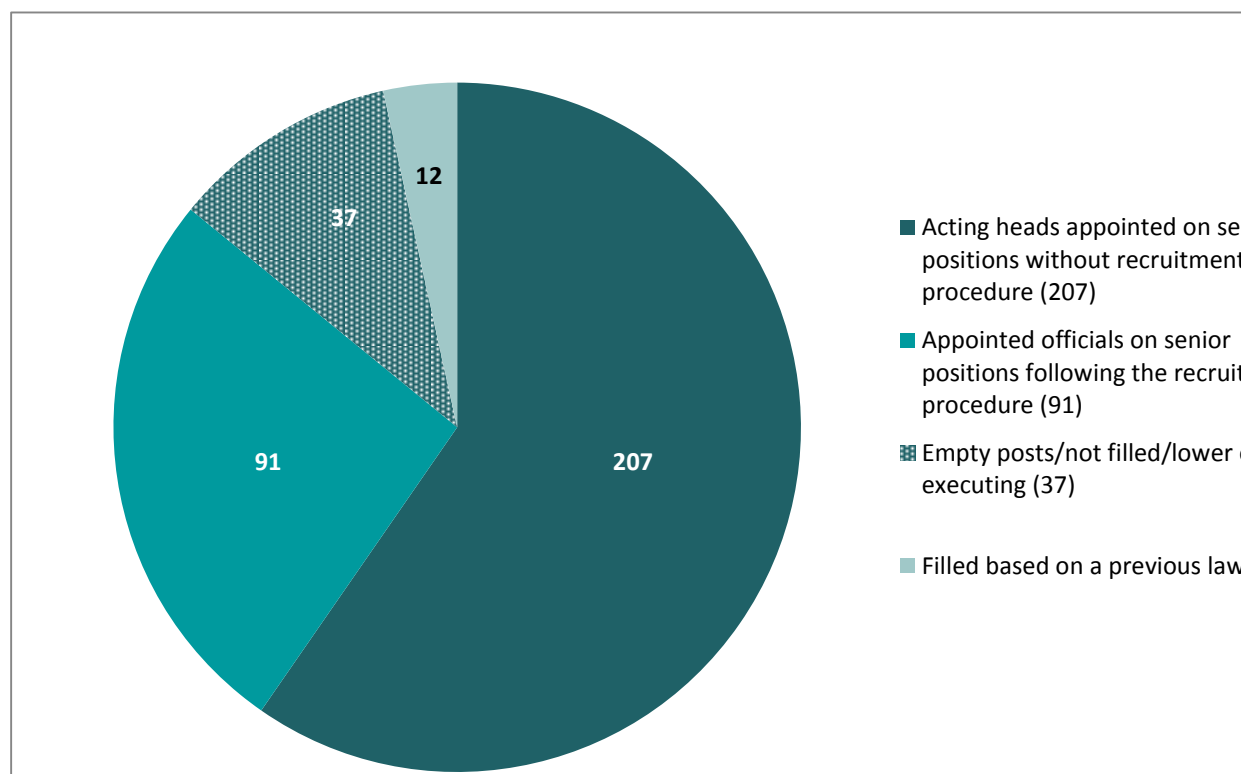
Source: Data provided by Human Resource Management Service.

The competition procedure for both internal and external positions is well defined formally, but the fact remains that a large number of senior civil service posts have never been filled competitively since implementation of the CSL began in 2006. Despite many attempts to overcome this problem²⁷⁶, the actual number of managerial posts appointed on a competitive basis (i.e. 91 posts, 26% of total positions) is still very low. In total, 207 “acting head” positions (60% of total civil service posts) have been filled for a limited duration without a competitive procedure, 37 posts (10.5%) have not been filled and 12 posts (3.5%) have been filled on the basis of the previous Law on Labour Relations in State Bodies²⁷⁷. There is strong concern that the “acting heads” may be appointed politically and that previously appointed senior managers who were later confirmed as “acting heads” only after expiration of their five-year mandate could be subjected to political pressure, owing to their uncertain status.

²⁷⁶ *Ibid.*

²⁷⁷ Official Gazette Nos. 11/94, 6/97, 16/02, 96/03, 118/08 and 43/10.

Figure 5. Appointment of senior civil servants



Source: Data provided by High Civil Service Council.

Moreover, compared to 2015 and 2016, the percentage of posts filled by competition has decreased²⁷⁸. More than 70% of senior civil servants are not appointed according to the legal provisions. A majority remain in acting positions as political appointees, without proper competitions being conducted, and many remain as senior civil servants after their five-year mandate has expired, with their acting position extended every three months²⁷⁹. This highlights a rising long-term risk of direct or indirect political influence on managerial civil service posts.

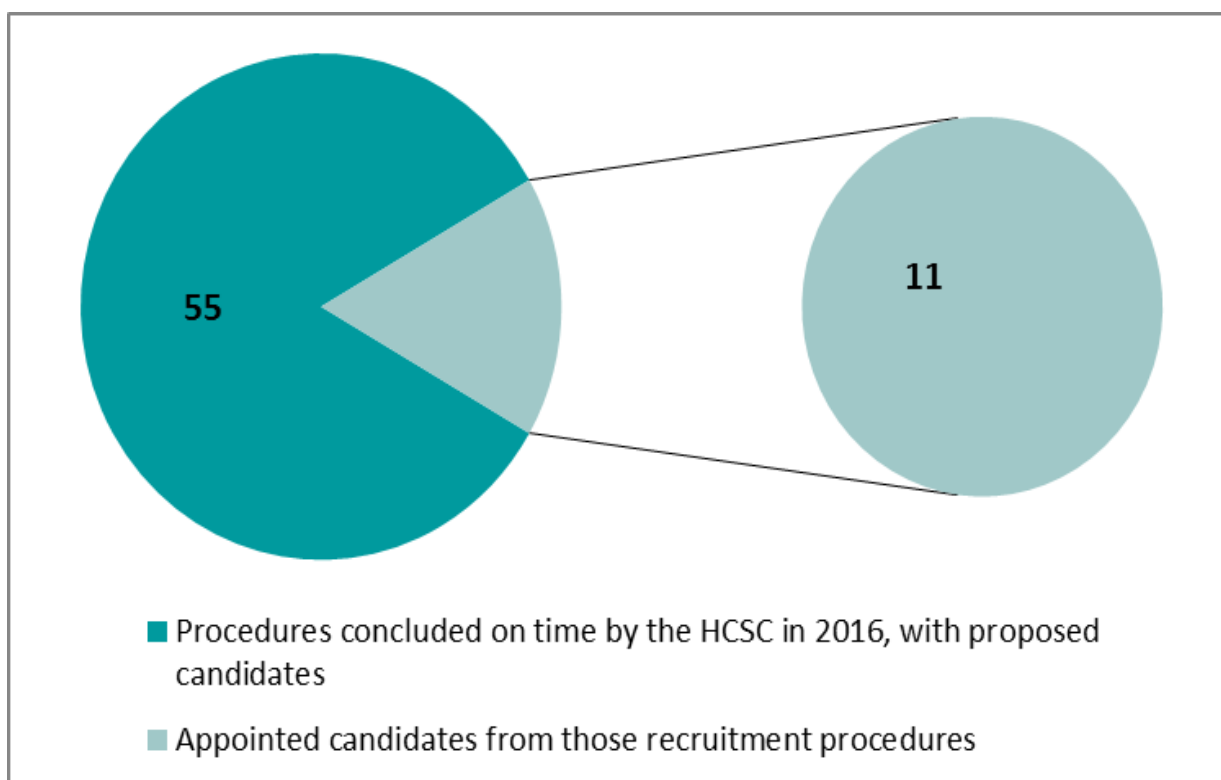
As required by the CSL²⁸⁰, competition procedures in 2016 were conducted by competition committees appointed by the HCSC. While 55 procedures (37 internal and 18 open) were run by the HCSC and all were completed on time, the Government has appointed only 11 (20%) of the recommended candidates.

²⁷⁸ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p. 52, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

²⁷⁹ Interview with HRMS and panel discussion with HR units.

²⁸⁰ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p.24, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

Figure 6. Recruitment procedures completed on time and subsequent appointments of senior civil servants



Source: Data provided by High Civil Service Council.

The reason for this is the same as in previous years: the minister/head of institution can decline to select any candidate from the list. Furthermore, the Government has also stopped the appointments of all senior managerial positions due to possible upcoming parliamentary elections, leading to appointments of senior managers on an acting basis.

As described in previous SIGMA reports, the CSL explicitly establishes objective criteria for the demotion and termination of employment of civil servants. However, one feature in particular merits attention: the CSL makes it possible to suspend a senior civil servant managing a State organisation if the organisation or body in charge of the individual's appointment determines "that a serious disturbance has occurred during his/her mandate"²⁸¹; the term "serious disturbance" is not defined. This is a serious breach of the otherwise objective system for terminating the employment of senior civil servants, because it leaves room for possible political influence.

The right to appeal against unfair dismissal to the Government Appeals Commission does not apply to senior managerial positions, but the Government's decision may nevertheless be disputed before the Administrative Court.

Despite attempts to fill all senior managerial positions on the basis of merit, serious concerns of direct and indirect political influence persist with regard to both the recruitment and employment termination of senior civil servants. Therefore, the value for the indicator 'Merit-based recruitment and dismissals of senior civil servants' is 2.

²⁸¹ CSL, Article 78, paragraph 3.

Merit-based recruitment and dismissal of senior civil servants

This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.

Recruitment and dismissal in senior positions is treated under a separate indicator, due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility of political influence in appointments to such positions.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
Legal framework and organisation of recruitment and dismissal of senior civil servants	
1. Appropriateness of the scope for the senior civil service in legislation	2/3
2. Adequacy of the legislative framework for merit-based recruitment for senior civil service positions	11/15
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework	0/4
4. Legislative protection of the rights of senior civil servants during demotion	2/2
Merit-based recruitment and termination of employment in senior civil service positions	
5. Application in practice of recruitment procedures for the senior civil service	2/9 ²⁸²
6. Ratio of eligible candidates per senior-level vacancy	4/4
7. Effectiveness of recruitment for senior civil service positions (%)	0/4 ²⁸³
8. Women in senior civil service positions (%)	4/4
9. Stability in senior civil service positions	0/4 ²⁸⁴
10. Dismissal decisions confirmed by the courts (%)	0/4 ²⁸⁵
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)	0/4 ²⁸⁶
Total²⁸⁷	25/57

The vertical scope of the civil service is legally well defined, and the grounds for internal and external recruitment and selection based on merit, equal opportunity and open competition formally exist. However, direct and indirect political influence on the filling of senior managerial positions remains. The high number of recruitment competitions run by the HCSC has not resulted in a high number of government appointments, leaving scope for politically-appointed acting senior managers to remain. The transparency and fairness of the termination procedure for senior managerial positions is jeopardised by the legal provision for terminating senior managerial employment owing to “serious disturbance” in the institution, which is not formally defined.

²⁸² This value is due to insufficient data being received.

²⁸³ Insufficient data provided to enable assessment.

²⁸⁴ Ditto.

²⁸⁵ No data provided.

²⁸⁶ Ditto.

²⁸⁷ Point conversion ranges: 0-10=0, 11-19=1, 20-28=2, 29-37=3, 38-46=4, 47-57=5.

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

The main development pertaining to salaries in the public sector (including the civil service) is the new Law on the Salary System in the Public Sector²⁸⁸. This is a systemic law, which sets the main principles and transparently regulates the salary system in the public sector. The Law covers all parts of the public sector except for the salaries of employees in: public enterprises and business entities/companies established by the State, autonomous province or local self-government unit; the National Bank of Serbia; public media/broadcasters; and organisations established by international treaties, or where salaries are defined in line with international treaties.

In addition, the new legal framework allows for sufficient flexibility in specific public sector subsystems, which will be reflected in the enactment of special laws pertaining to civil servants; national authorities and authorities of autonomous provinces and local self-government units; and public agencies and other authorities and organisations founded by the State, an autonomous province or a local self-government unit. Drafting of these legislative acts was envisaged for 2016, but has not occurred; hence, the Law has been amended, and its implementation postponed to 1 July 2017, and enactment of those special laws has been postponed to 1 January 2018. Special laws pertaining to police and the professional army will also need to be enacted or harmonised, and will also be effective from 1 January 2018.

To ensure comparability among public sector salaries, the Law on the Salary System in the Public Sector envisages the introduction of a unified basis for salary calculation. The new Law envisages classifying all public sector employees within 13 pay grades based on a common job-evaluation system. A new General Catalogue of Job Positions (i.e. titles, ranks, positions and functions in the public sector) will be prepared based on this common system²⁸⁹. This should improve the coherence and transparency of the remuneration framework for both the public sector and the civil service, but whether remuneration is successfully aligned in practice remains to be seen.

The present salary system has not changed since 2015. Formally, it is a homogeneous and transparent system (except for sectors that are excluded from general legislation, like the Tax Administration, the police and the army). All practical deficiencies have been noted above, including the dysfunctional consequences of the current performance-appraisal system²⁹⁰. In addition, since the new Law on the Salary System in the Public Sector is an umbrella law, the special Law on Salaries of Civil Servants should be adopted (as stated above). Until then, the old Law on Salaries of Civil Servants and General Service Employees²⁹¹ will remain in force.

In light of the new Law on the Salary System in the Public Sector and efforts targeting its future implementation and the existence of a formally transparent salary system based on job classifications, the value for indicator 'Fairness and competitiveness of the remuneration system for civil servants' is 1.

²⁸⁸ Official Gazette Nos. 18/16 and 108/16.

²⁸⁹ As explained during the interviews at the beginning of March 2017 at the MPALSG and the MoF, all mentioned activities are "under development".

²⁹⁰ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p. 53, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

²⁹¹ Official Gazette Nos. 62/06, 63/06, 115/06, 101/07, 99/10, 108/13 and 99/14.

Fairness and competitiveness of the remuneration system for civil servants						
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the systems in practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of the remuneration system	
1. Legal obligation to base salaries on job classifications	2/2
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation	2/2
3. Availability of salary information	1/3
Performance and fairness of the remuneration system in practice	
4. Fairness in the allocation of base salaries in the job classification system	1/4
5. Base salary compression ratio	0/2 ²⁹²
6. Managerial discretion in the allocation of bonuses	1/2
7. Motivational character of bonuses (%)	0/2
8. Competitiveness of civil service salaries (%)	0/3 ²⁹³
Total²⁹⁴	7/20

The salary structure for public servants is transparent, fair (with minor inconsistencies) and based on a job-classification system. However, before the new Law on the Salary System in the Public Sector can be implemented, a job catalogue and special laws need to be adopted.

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.

According to the CSL²⁹⁵, civil servants have the right and duty to undergo professional development according to the needs of the institution of employment. Annual assessment, promotion, transfer and professional development are well defined legally in Chapter 6 of the CSL²⁹⁶, as well as in the secondary legislation (i.e. the Decree on Performance Appraisal²⁹⁷ and the Decree on Professional Development²⁹⁸). However, based on the Law on Ministries²⁹⁹ and the CSL, the responsibility for professional development is divided between the MPALSG (programme adoption) and the HRMS (training delivery). In addition, the responsibility for professional development in the area of European integration (EI) issues lies with the MEI³⁰⁰.

²⁹² No data provided.

²⁹³ Ditto.

²⁹⁴ Point conversion ranges: 0-3=0, 4-7=1, 8-10=2, 11-13=3, 14-16=4, 17-20=5.

²⁹⁵ CSL, Article 10, paragraph 2.

²⁹⁶ *Idem*, Articles 82 and following.

²⁹⁷ Official Gazette Nos. 11/06 and 109/09.

²⁹⁸ Official Gazette No. 25/15.

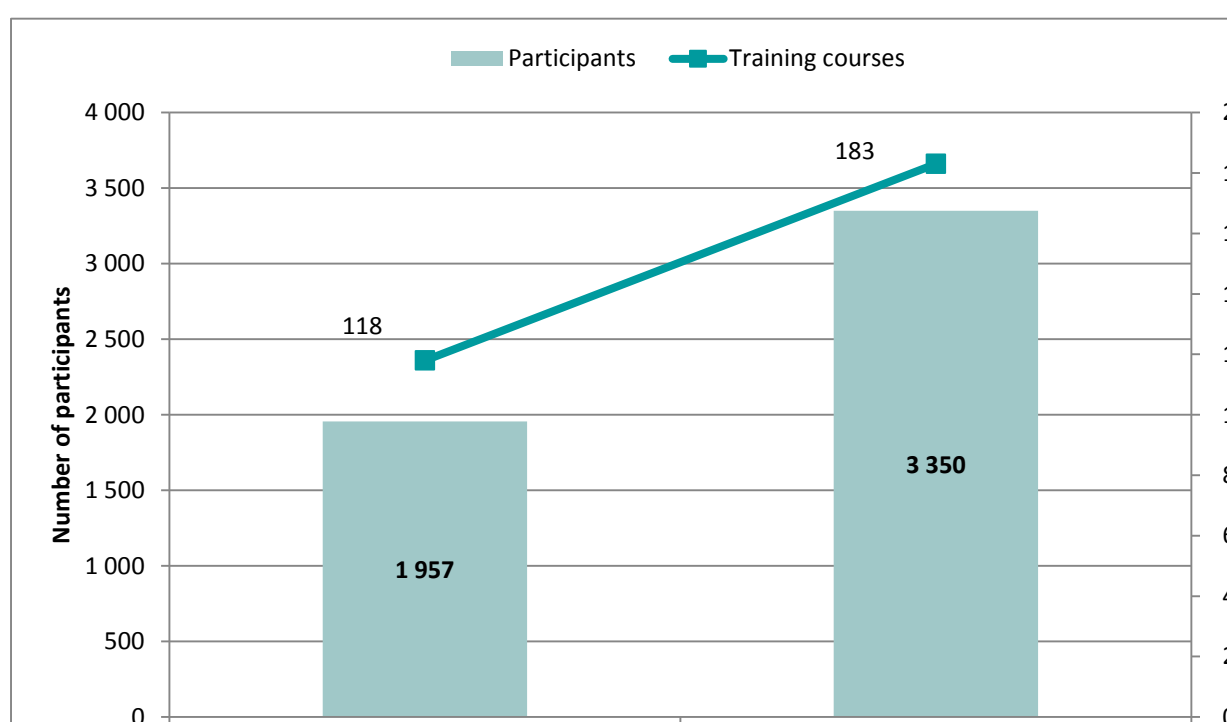
²⁹⁹ Official Gazette Nos. 44/14, 14/15, 54/15 and 96/15.

³⁰⁰ The Serbian European Integration Office (SEIO) became the Ministry of European Integration (MEI) on 26 June 2017; hereafter in this chapter, in compliance with the name of the institution, "MEI" rather than "SEIO" is used unless SEIO is part of the title of a publication or law.

The HRMS is responsible for preparing the proposal of the annual civil servants' General Professional Training Programmes and organises the professional training in accordance with the Programmes adopted by the MPALSG. According to the Decree on Professional Development there are four general training programmes: the training programme for newly employed civil servants; the general programme of continuous training for civil servants; the training programmes for managers; and the personal development training programme.

The HRMS implemented 118 training courses in 2015 totalling 1 957 participants and, in 2016, 183 training courses totalling 3 350 participants³⁰¹. The number of trainees has continued to rise since 2015. In addition, coaching and mentoring are being used as development tools in implementation of training programmes. Aside from the general training programmes implemented by HRMS, almost 8 300 civil servants participated in a variety of other training programmes organised by different public authorities and the MEI.

Figure 7. Training implemented by HRMS



Source: Data provided by Human Resource Management Service.

The HRMS conducts an annual evaluation of outcomes through an online survey six months after the general training programme. The results of the evaluation show a high level of satisfaction among trainees³⁰². These results and the results of annual performance appraisals³⁰³ are to prepare the Training Needs Assessment. There is no evidence to show a connection between appraisals and the promotion and transfer of civil servants.

The CSL also regulates the legal framework and procedures for performance appraisal, promotion, dismissal and termination of employment of civil servants. Performance appraisal is regulated by the CSL and the Decree on Appraisal of Civil Servants: the CSL establishes a five-point assessment scale for civil servants, while the Decree on Appraisal of Civil Servants defines the appraisal criteria. Legislation pertaining to remuneration also emphasises the importance of performance appraisals, which

³⁰¹ Report on Implementation of Training Programme for 2016, <http://www.suk.gov.rs/dotAsset/21656.pdf>.

³⁰² Results of the 2016 survey indicate that 77.5% of respondents consider they perform their job better thanks to the knowledge and skills acquired in training. Also, 73.0% of respondents agree with the statement that they can apply the knowledge and skills acquired in training to their job.

³⁰³ Report on Evaluation of Training Programme for 2016, <http://www.suk.gov.rs/dotAsset/21485.pdf>.

influence the promotion, rewards and professional development of civil servants and represent an important basis for terminating employment. Despite the solid legal framework, however, performance appraisals have proven to be both inefficient and ineffective. As in the previous years, problems with mark inflation remain: the appraisals conducted in 2016 for performance in 2015 resulted in almost 90% of civil servants obtaining the highest grades. Although some civil servants were promoted in 2016, promotions were generally not possible due to budget restrictions and the improper application of performance appraisals.

Appraised civil servants have the right to appeal their rating. In 2016, 201 appeals of performance appraisal ratings were submitted to the Government Appeals Board (1.3% of the total number appraised in that year).

The HRMS is also responsible for the internal labour market³⁰⁴, a tool aiming to facilitate the transfer of civil servants. At present, seven civil servants have requested a transfer³⁰⁵.

Despite some practical concerns, professional development and appraisal of public servants functions formally. Therefore, the value for the indicator 'Professional development and training for civil servants' is 3.

³⁰⁴ CSL, Article 163.

³⁰⁵ http://www.suk.gov.rs/sr_latim/interno_trziste_rada/index.dot?osnov_trazenja=1.

Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of professional development	
1. Recognition of training as a right and a duty of civil servants	2/2
2. Co-ordination of the civil service training policy	3/3
3. Development, implementation and monitoring of training plans	2/3
4. Evaluation of training courses	2/2
5. Professionalism of performance assessments	3/4
6. Linkage between performance appraisals and measures designed to enhance professional achievement	2/4
7. Clarity of criteria for and encouragement of mobility	1/2
8. Adequacy of legislative framework for merit-based vertical promotion	2/2
9. Absence of political interference in vertical promotions	0/2
10. Right of civil servants to appeal against performance appraisal decisions	2/2
11. Right of civil servants to appeal mobility decisions	2/2
Performance of professional development practices	
12. Training expenditures in proportion to the annual salary budget (%)	0/4 ³⁰⁶
13. Participation of civil servants in training	3/5
14. Perceived level of meritocracy in the public sector (%)	2/5
Total³⁰⁷	26/42

Responsibilities for professional development of civil servants are not clearly delegated, creating practical difficulties. Despite the training methodology prepared by the HRMS, horizontal training of generic competences and specialised courses are insufficiently funded, and the proportion of public servants reached by the annual General Professional Training Programme is very low. Performance appraisals are conducted at all public authorities, but only as a formal exercise.

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

The legislative framework for promoting integrity and preventing corruption is comprehensive. There is a clear provision within the CSL³⁰⁸ on the obligation of appointed civil servants³⁰⁹ to report any act of corruption within the institution where they are employed. An appointed civil servant is not allowed to own a private company; therefore transfer of ownership must be reported to the ACA³¹⁰. The ACA can

³⁰⁶ No data provided.

³⁰⁷ Point conversion ranges: 0-6=0, 7-13=1, 14-21=2, 22-29=3, 30-36=4, 37-42=5.

³⁰⁸ CSL, Article 23a.

³⁰⁹ The Law on the Anti-Corruption Agency, Article 2, includes appointed civil servants (managerial level of the civil service).

³¹⁰ CSL, Article 28.

recommend terminating the employment of an appointed civil servant in case of corruption. Misuse or abuse of notification of corruption suspicion is one of the major violations of disciplinary measures³¹¹ that could also lead to terminating the employment of a civil servant. On the other hand, the Law on Anti-Corruption Agency³¹² features an obligation for the ACA to begin procedures once it has received a report concerning an act of corruption by an appointed civil servant³¹³. The CSL regulates in detail the various conflicts of interest for civil servants³¹⁴ (such as accepting gifts or procedures in which they might have a special interest). The adoption of the Law on Whistle Blower Protection³¹⁵ is also an important development. In addition, the ACA has adopted a Rulebook on Protection of Persons who Declare Corruption³¹⁶ that provides a procedure for reporting corruption cases on the ACA website.

In 2016, the ACA intensified its work on training civil servants in preventing corruption. It also produced a promotional film on preparing integrity plans and in 2017 prepared a completely new draft law³¹⁷ to replace the current Law on ACA, with the objective of further strengthening its independence³¹⁸, competences and capacities. The draft Law (which still has to be agreed/endorsed by the Ministry of Justice before it can move to the next stage in the legislative process) also addresses a number of specific shortcomings that hamper effective application of the current Law. It states that special attention should be devoted – both in law and in practice – to avoidance and management of conflicts of interest³¹⁹.

The ACA is responsible for preventing conflicts of interest in the public administration. It is also responsible for: 1) monitoring implementation of the National Anti-Corruption Strategy (2013-2018)³²⁰ and corresponding Action Plan³²¹; 2) developing guidelines for state authorities' integrity plans (more than 50% of institutions have adopted the plan); 3) monitoring asset declarations (for appointees only, not all civil servants); and 4) co-ordinating the work of state institutions in fighting corruption³²².

These measures have not greatly influenced public perception of corruption. With a value of 42/100 (a value of 0 meaning "highly corrupt" and 100 meaning "highly clean") in the Transparency International's Corruption Perception Index, Serbia has a ranking of 72/176³²³.

The HCSC adopted the Code of Conduct for Civil Servants in 2008³²⁴. However, practical implementation of the Code is limited, and many State authorities have developed their own codes.

The CSL also establishes the principle of disciplinary liability for civil servants³²⁵. In practice, however, disciplinary procedures are rarely put in motion. Problems are more commonly kept quiet or resolved

³¹¹ *Idem*, Article 109.

³¹² Official Gazette Nos. 97/08, 53/10, 66/11, 67/13, 112/13 and 8/2015.

³¹³ Law on ACA, Article 5.

³¹⁴ CSL, Articles 25 and further.

³¹⁵ Official Gazette No. 128/14.

³¹⁶ This Rulebook has not been in force as of 2015, because the Constitutional Court found it to be unconstitutional (Constitutional Court Decision 8/15).

³¹⁷ Drafted in 2016 by a Working Group consisting of 17 members and chaired by a former Director of the ACA. The draft was assessed by an EU funded twinning project and the Organization for Security and Co-operation in Europe, and a report was sent to the MoJ, the responsible ministry.

³¹⁸ In the current legislation, there are no clear merit-based criteria for recruitment of the ACA Director and Board members to prevent potential political appointments.

³¹⁹ See also Council of Europe (2016), Sixteenth General Activity Report of the Group of States against Corruption, Council of Europe, Strasbourg.

³²⁰ Official Gazette No. 57/13.

³²¹ Official Gazette No. 79/13.

³²² Other ACA responsibilities include corruption risk assessment in legislation, acting upon complaints, integrity plans (quality and implementation) and control of financing of political activities,

³²³ http://www.transparency.org/news/feature/corruption_perceptions_index_2016.

³²⁴ Official Gazette Nos. 29/08 and 30/15.

informally. According to data provided by selected state administration bodies, no disciplinary procedures were conducted in 2016.

The legislation on disciplinary procedures for minor and serious violations of duty³²⁶ is very rarely applied in practice, and there is no specific time limit for initiating disciplinary procedures.

Based on the above analysis, the value for the indicator 'Quality of disciplinary procedures for civil servants' is 3 and the value for the indicator 'Integrity of public servants' is 3 as well.

Quality of disciplinary procedures for civil servants						
This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of disciplinary system	
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures	4/4
2. Compliance between disciplinary procedures and essential procedural principles	6/6
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour	0.5/2
4. Legislative safeguards for suspension of civil servants from duty	1/2
Performance of the disciplinary procedures	
5. Disciplinary decisions confirmed by the courts (%)	0/4 ³²⁷
Total³²⁸	11.5/18

³²⁵ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, p.19, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

³²⁶ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, p.56, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

³²⁷ No data provided.

³²⁸ Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

Integrity of public servants						
<p>This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service.</p> <p>The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.</p>						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of the public sector integrity	
1. Completeness of the legal framework for public sector integrity	5/5
2. Existence of a comprehensive public sector integrity policy and action plan	3/4
3. Implementation of public sector integrity policy	2/3
Public sector integrity in practice and public perceptions	
4. Use of investigations in practice	0/4 ³²⁹
5. Perceived level of bribery in the public sector by businesses (%)	2/4 ³³⁰
6. Bribery in the public sector by citizens (%)	2/4 ³³¹
Total³³²	14/24

The legal framework for ethics is largely in place, with a number of legislative measures aiming to prevent corruption and encourage integrity in public administration. The ACA has the resources to carry out monitoring, but it does not have the powers to enforce specific sanctions or measures, such as in cases related to integrity plans. These include implementation of integrity plans governing recruitment processes. Disciplinary procedures are adequately regulated, and there are no major implementation problems.

Key recommendations

Short-term (1-2 years)

- 1) The MPALSG should consider and prepare proposals to amend the CSL to ensure that: 1) a realistic deadline for the appointment of all senior managers is established; 2) the recruitment application process is simplified and less bureaucratic; 3) temporary positions are filled on the basis of competition and the best candidate is recruited; and 4) a clear definition is provided for “serious disturbance” in relation to the termination procedure for senior managerial positions.
- 2) The MPALSG, in co-operation with the HRMS, should ensure the systemic implementation of merit-based recruitment, as defined in the CSL. It should issue guidelines and ensure that training of members of selection committees is properly conducted and funded.

³²⁹ No data provided.

³³⁰ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

³³¹ *Ibid.*

³³² Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-24=5.

- 3) The AI should review the implementation of the CSL regarding acting senior civil servants and ensure its proper implementation.
- 4) The MoF (with the MPALSG) should implement a comprehensive reform of the pay system (i.e. conduct legislative activities and prepare job catalogues), as envisaged by the Law on the Salary System in the Public Sector.
- 5) The Ministry of Justice and the ACA should make provision in the new draft law on anti-corruption for clear merit-based criteria for recruitment of the ACA board members and director in order to prevent political appointments.

Medium-term (3-5 years)

- 6) The Government (with the MPALSG) should clarify the responsibilities among the relevant institutions for the professional development of civil servants and increase the funding for human-resource development.
- 7) The Government should ensure the practical application of individual performance appraisals to salaries, promotions, transfers and terminations of employment.

4

Accountability

ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

The legal framework for central government bodies is fragmented, and the distinction between the different forms of organisations and agencies is not based on clear criteria. Internal management of ministries is heavily centralised, as many decisions of a technical nature (e.g. the approval of annual leave requests and staff business trips) require final approval from senior management.

The legal and institutional framework promoting transparency of public institutions is in place. The Commissioner for Information of Public Importance ensures an effective right to appeal refusals or lack of response to public information requests submitted to the state administration bodies. However, proactive disclosure of information via the websites of public institutions poses a challenge, and the mechanisms for imposing sanctions for non-compliance with the Law on Free Access to Information³³³ (LFAI) are inefficient. The capacity of the Commissioner to monitor the state of affairs is limited.

The legal status of the Ombudsman and the State Audit Institution (SAI) is formulated in line with international standards, and the share of acceptance of the Ombudsman's and SAI's recommendations is high. But the actual level of implementation of the Ombudsman's recommendations remains unknown because there is no adequate monitoring mechanism. There are some concerns with regard to the independence of the Ombudsman from the executive, as staffing plans of the institution require approval from the Ministry of Finance (MoF).

While the introduction of a special remedy against excessive length of judicial proceedings (Law on Protection of Right to Trial in a Reasonable Time³³⁴) is welcomed, this kind of measure will not replace increasing the efficiency of the administrative justice system. Unfortunately, the efficiency of the Administrative Court is relatively low and there is evidence of regress over recent years. In 2014, the Court managed to slightly reduce the backlog, but it increased again in 2016. As a result, the average time needed to resolve a case reached 534 days in 2016, while in 2014 it was 440 days.

Individuals have the right to seek compensation for damage caused by unlawful actions of state administration bodies. Due to a lack of central monitoring, there is no data illustrating the practical implementation of the right to compensation.

1.2. Main developments

The following sections describe key changes in the public administration for each key requirement³³⁵ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

Since 2014, the main development in the area of accountability was legislative. The Law on Protection of Right to Trial in a Reasonable Time was adopted on 7 May 2015 to safeguard the implementation of the constitutional right to a public hearing before the court "within a reasonable time"³³⁶. Every party

³³³ Law on Free Access to Information of Public Importance (hereinafter referred to as "the Law on Access to Information") of 5 November 2004, Official Gazette No. 120/04.

³³⁴ Law on Protection of Right to Trial in a Reasonable Time of 7 May 2015, Official Gazette, No. 40/2015.

³³⁵ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p.55, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

³³⁶ Article 32.1 of the Constitution of the Republic of Serbia, Official Gazette No. 98/2006.

in judicial proceedings is entitled to file a complaint for speeding up the proceedings, and if this measure does not lead to resolution of the case, to submit a request for financial compensation.

The following section describes the key changes in the public administration for one key requirement and main developments based on the indicators used in the 2015 Baseline Measurement Reports.

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

The legal framework for the organisation of central government is stable. No progress has been made in dissemination of results-oriented and decentralised governance culture among state administration bodies. However, a functional review of 94 government bodies has been conducted³³⁷, providing clearly structured information on the functions, staffing and internal organisation of central government bodies.

Compliance with the decisions of the Commissioner for Information of Public Importance has decreased. In 2015, 85% of the Commissioner's decisions were executed by public bodies, but this decreased to 74% in 2016³³⁸.

The share of the Ombudsman's recommendations reported by the Ombudsman as implemented has reached a high level, but the mechanisms for monitoring implementation are not in place. Therefore, it is difficult to assess the actual implementation of his recommendations. Furthermore, the co-operation between the Ombudsman and the Parliament remains insufficient, as the Ombudsman is not invited to present his/her annual report in a plenary session of the Parliament.

The backlog of cases in the Administrative Court has started to increase, and the appointment of three new judges compared to 2014 (plus a significant number of support staff) has not been sufficient to tackle this problem. The feasibility study on the establishment of a second-instance administrative court, as recommended by SIGMA in 2015³³⁹, has not been conducted, and there is no evidence of any analytical process leading to strategic decisions in this matter. The problem of the lack of a comprehensive regulatory framework for legal aid remains unresolved.

No progress has been made with regard to the monitoring of public liability court cases and the aggregation of data on payments made in such cases. During the 2015 analysis, SIGMA was not provided with sufficient detail on the Law on Obligations that regulates issues of state liability. As a result, the indicator value was much lower than in 2017, when this Law was taken into account.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports³⁴⁰

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2	2

³³⁷ Ministry of Public Administration and Local Self-Government, *Annual Report for 2016 on Implementation of the Action Plan of the Public Administration Reform Strategy in the Republic of Serbia 2015-2017* of February 2017.

³³⁸ Data provided by the Commissioner.

³³⁹ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

³⁴⁰ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

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	Extent to which the right to access public information is enacted in legislation and applied in practice.	3	3
	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	4	4
	Extent to which public authorities assume liabilities and guarantee redress.	1	4 ³⁴¹
Quantitative	Number of bodies reporting to the council of ministers, to the prime minister or to the parliament.	46 ³⁴²	45 ³⁴³
	Share of public information requests refused in a given year by the supervisory authority.	9.4% ³⁴⁴	12.3% ³⁴⁵
	Share of oversight institutions' recommendations to state administrative bodies implemented within two years ³⁴⁶ .	63% ³⁴⁷	75% ³⁴⁸
	Number of complaints submitted to the administrative court in a given year.	19 423 ³⁴⁹	21 548 ³⁵⁰
	Percentage of cases changed or returned for verification by the higher court.	14% ³⁵¹	Not available ³⁵²
	Backlog of administrative cases.	24 262 ³⁵³	28 176 ³⁵⁴

³⁴¹ There were no changes in the legal framework regarding public liability, but the modification of the indicator value is based on a revised analysis of the laws. This significant change in the rating is due to the fact that during the SIGMA 2015 Assessment, SIGMA was not informed of an important piece of legislation that regulates obligations of the state.

³⁴² Twenty-one non-constitutional institutions reported directly to the Parliament and 25 to the Government, as indicated in "Oversight function of the National Assembly", www.parlament.gov.rs/upload/documents/brochures/Kontrolna%20funkcija%20ENG.pdf and "Agencies in Serbia. Analysis and recommendations for reform" USAID, March 2013, <http://www.bep.rs/documents/news/Analysis%20of%20agencies%20in%20Serbia.pdf>.

³⁴³ Twenty-one non-constitutional institutions report directly to the Parliament and 24 to the Government, as indicated in "Oversight function of the National Assembly". www.parlament.gov.rs/upload/documents/brochures/Kontrolna%20funkcija%20ENG.pdf and the inventory of central government bodies prepared by SIGMA.

³⁴⁴ Data received from the Commissioner for Information of Public Importance. Data relates to 2014.

³⁴⁵ Data received from the Commissioner for Information of Public Importance. Data relates to 2016.

³⁴⁶ Relates to the Ombudsman only.

³⁴⁷ Data for 2014 refers to the Ombudsman's recommendations issued only in the ordinary oversight procedure: 115 recommendations were accepted, 68 not accepted. Information obtained from the Ombudsman.

³⁴⁸ Data for 2016 refers to the Ombudsman's recommendations issued only in the ordinary oversight procedure: 314 recommendations were accepted, 107 not accepted. Information obtained from the Ombudsman.

³⁴⁹ Submitted by the Court and taken from the High Judicial Council (HJC) for 2014.

³⁵⁰ Data provided by the Administrative Court for 2016.

³⁵¹ A total of 19 rulings were returned or changed, out of 134. Data obtained from the HJC for 2014.

³⁵² No data provided.

³⁵³ The Judicial Council; the Administrative Court for 2014.

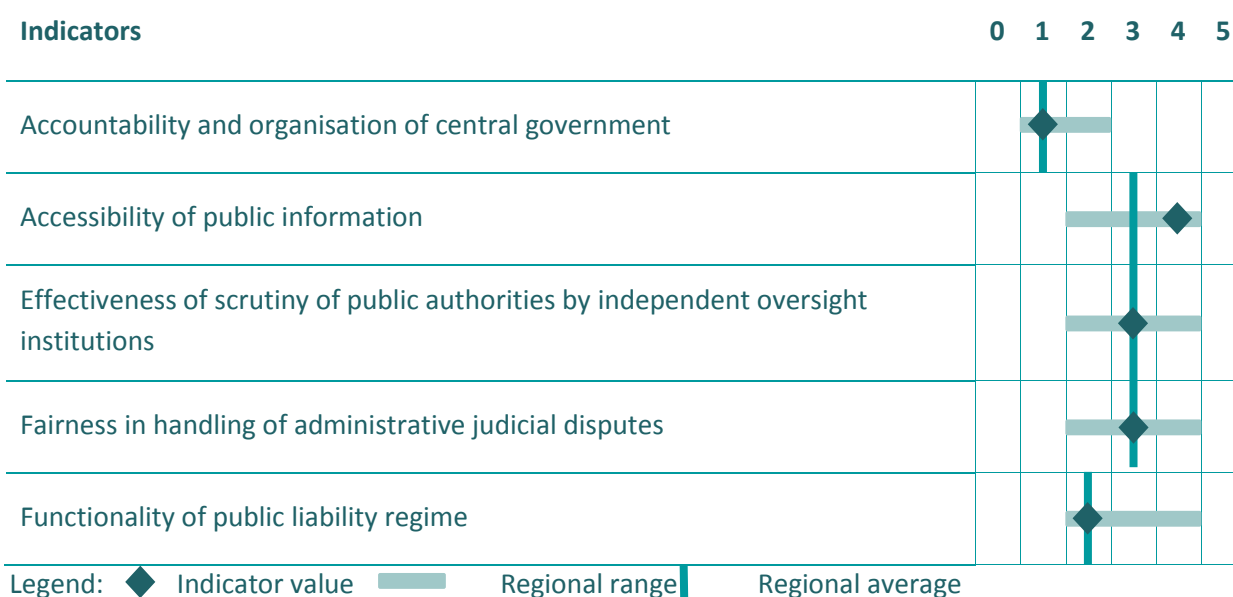
³⁵⁴ Data provided by the Administrative Court for 2016.

2. ANALYSIS

This analysis covers five Principles for the accountability area grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators³⁵⁵, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 body of primary legislation regulating the organisation of central government is extensive, leaving little room for intra-governmental, more flexible management. For instance, the primary legislation contains a list of ministries and specifies a detailed mandate for each of them. The legislative framework for central government is based on four pillars: 1) the Law on Government (LoG)³⁵⁶; 2) the Law on State Administration (LSA)³⁵⁷; 3) the Law on Ministries (LoM)³⁵⁸; and 4) the Law on Agencies

³⁵⁵ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

³⁵⁶ The Law of 2005 on Government, Official Gazette No. 55/05, 71/05.

³⁵⁷ The Law of 2005 on State Administration, Official Gazette No. 79/05, 101/07 and 95/10.

³⁵⁸ The Law of 2014 on Ministries, Official Gazette No. 44/2014 and 14/2015.

(LoA)³⁵⁹. While the LoG focuses on the political level of the executive, it also sets out general principles of the Government's supervision over state administration bodies. The LSA provides the basic typology of government bodies, including ministries, administrative authorities within ministries ("integrated authorities") and special organisations. The LoA adds public agencies as another element of the Government's structure. There are a large number of public bodies reporting directly to the Government (24) and to the Parliament (21), which results in less efficient supervision over them. Moreover, even for those bodies that are under a line ministry and report directly to the minister, the ministry usually does not directly exercise control over them.

All relevant laws provide definitions of integrated authorities, special organisations and agencies, but there is no clear rationale behind this typology of government bodies. Definitions overlap to a large extent (Table 2). Different bodies could be established to perform a very similar range of tasks in a semi-autonomous manner. There is an attempt to distinguish between administrative bodies based on the scope of their autonomy – from the least autonomous integrated authorities through to more autonomous special organisations and the most independent agencies. However, the legislation fails to comprehensively describe the actual scope of autonomy of each body and provide clear criteria for the selection of the adequate organisational form in specific cases.

Table 2. Typology of central government bodies (excluding ministries)

Type	Key features	Number
Administrative authorities within ministries	Central government bodies established when "the nature and extent of their responsibilities require a greater level of autonomy than the one that a department enjoys within a ministry" in order to "carry out executive or inspectoral tasks and expert tasks" (Article 28 of the LSA).	32
Special organisations	Central government bodies "established to carry out expert and related executive tasks whose nature requires a greater level of autonomy than the one enjoyed by an integrated authority." (Article 33 of the LSA).	18
Agencies	Central government bodies "established if its developmental, specialist, and/or regulatory responsibilities do not require a constant direct political supervision, and if a public agency can perform [these tasks] more efficiently than a state administration authority, particularly when these tasks can entirely or mostly be financed from the fees paid by the users of services rendered" (Article 2 of the LoA).	14

Sources: Analysis of legislation and inventory of central government bodies prepared by SIGMA.

Within the framework of regulatory impact assessment, the cost and staffing of newly created or re-organised administrative bodies is analysed³⁶⁰, but there are no guidelines for an evidence-based choice of the legal form of a new institution. As a result, there are no safeguards against making arbitrary decisions on the selection of the organisational form of administrative bodies.

The Public Administration Reform (PAR) Strategy 2014-2017 recognised the lack of criteria and procedure governing the selection of organisational forms of public bodies as a key challenge, but no

³⁵⁹ The Law of 2005 on Agencies, Official Gazette No. 18/05 and 81/05.

³⁶⁰ This assumption, however, is based on only one example of re-organisation that was provided to SIGMA (of the three requested).

progress has been made in formulating a comprehensive policy to manage the institutional architecture of central government.

The governance scheme for subordinated bodies is fragmented and does not promote results-oriented management. While the LSA and the LoA stipulate general principles of supervision over subordinated bodies, these can be modified by the laws establishing each special organisation or agency. In the case of agencies, the LoA explicitly states that agencies may also be created, based on other legal basis than the LoA. In addition, while agencies and special organisations are required to prepare annual plans, and the plans of administrative authorities within ministries are included in ministerial plans, the legislation does not require these plans to be structured as logical frameworks with specific objectives, clear indicators and targets, and a comprehensive monitoring scheme. Only in the case of agencies does the LoA explicitly require annual plans to include objectives and methods for their achievement, but these elements are not sufficient to establish a comprehensive results-oriented governance scheme. As a result, measurable targets usually are not set for public bodies. This hampers the effectiveness of the managerial accountability scheme.

The management culture in the central government is heavily centralised, both in terms of the governance of bodies subordinated to the ministries and the internal management of the ministries. The dominant form of subordinated body is an administrative authority within a ministry (Table 2), which enjoys the narrowest scope of independence among all types of subordinated bodies. Its status is similar to the internal organisational unit of the ministry, as the minister is allowed to direct its activities. In addition to this, numerous technical decisions regarding the internal management of the ministries require approval by the minister, state secretary or secretary general of the ministry (e.g. approval of annual leave requests and staff business trips). This distracts ministers, state secretaries and senior civil servants from performing policy-making functions and hampers managerial accountability, based on the autonomy of senior civil servants.

The failure to provide some data, or the provision of insufficient data, made it impossible to fully assess the practical implementation of the accountability in central government. In light of this, the value for the indicator 'Accountability and organisation of central government' is 1.

Accountability and organisation of central government

This indicator measures the extent to which the governance model of central government upholds lines of accountability and contributes to increasing the state's capacity, which is defined as the ability of the administrative apparatus of the state to implement policies, deliver services to citizens and support decision makers with policy advice. This includes assessing the legal and institutional framework for overall organisation of central government, as well as its implementation in practice.

Overall indicator value 0 **1** 2 3 4 5

Sub-indicators	Points
Policy and legal framework for central government organisation	
1. Clarity and comprehensiveness of official typology of central government bodies	4/5
2. Adequacy of the policy and regulatory framework to manage central government institutions	1/5
3. Strength of basic accountability mechanisms between ministries and subordinated bodies	1/5
4. Managerial accountability mechanisms in the regulatory and legislative framework	1/5 ³⁶¹
Central government's organisation and accountability mechanisms in practice	
5. Consistency between practice and policy in government re-organisation	0/4 ³⁶²
6. Number of public bodies subordinated to the parliament (%)	0/4
7. Accountability in reporting between central government bodies and parent ministry	0/4 ³⁶³
8. Effectiveness of basic managerial accountability mechanisms for central government bodies	0/4
9. Delegation of decision-making authority within ministries	1/4 ³⁶⁴
Total³⁶⁵	8/40

The legal framework for central government bodies is fragmented. There is no procedure ensuring evidence-based management of the institutional development of the state administration. There is no transition towards a results-oriented management culture, and centralised management of government bodies hampers managerial autonomy and accountability.

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

The LFAI develops the constitutional guarantees of the right to information³⁶⁶. The definition of public information established by this Law and key procedural aspects of access to information are largely in

³⁶¹ This value is due to insufficient documentary evidence being received.

³⁶² This value is due to insufficient documentary evidence being received. SIGMA received only files related to replacing the Investment and Export Promotion Agency and the National Regional Development Agency with Serbian Development Agency. As stipulated in the methodology, 0 points are assigned because only one example of merger/reorganisation of public bodies was provided (of the three requested).

³⁶³ This value is partly due to the non-provision of some documentary evidence by two of the five bodies selected for analysis.

³⁶⁴ This value is partly due to the non-provision of documentary evidence by some bodies selected for analysis (particularly the Ministry of Education).

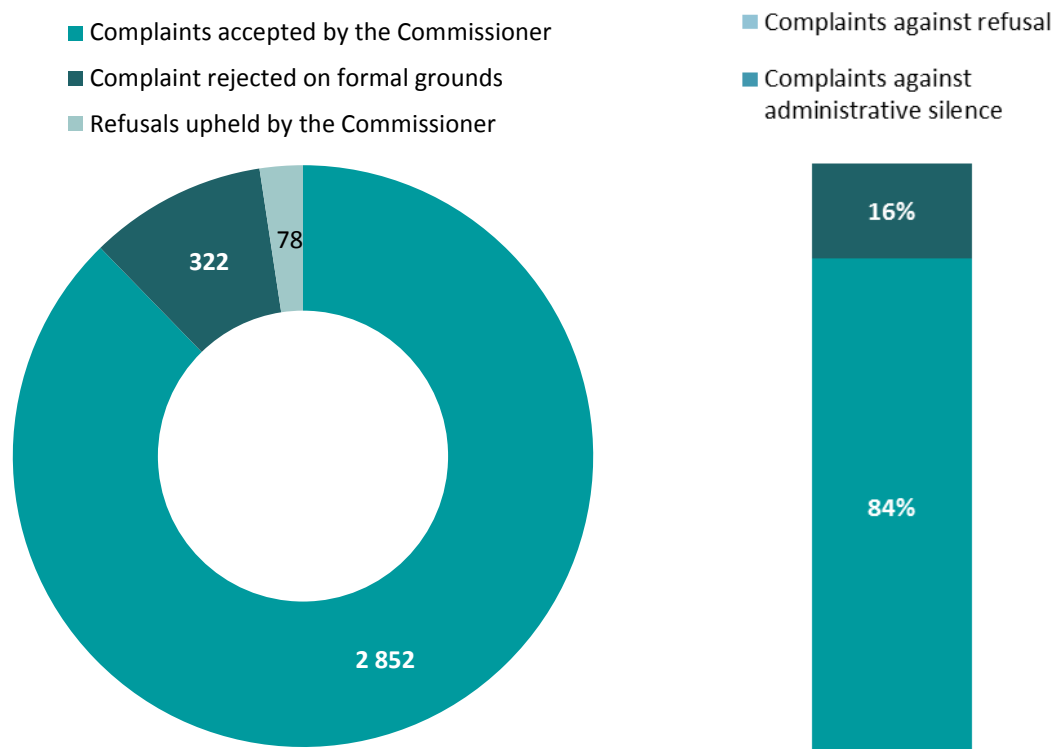
³⁶⁵ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

³⁶⁶ Article 51 of the Constitution of the Republic of Serbia.

line with international standards. However, the LFAI contains a controversial clause about the abuse of the right to access public information, which enables information holders to refuse access to information when “a request is unreasonable, frequent, where an applicant repeatedly requires the same information or information already obtained, or when too much information is requested”. This provision provides room for arbitrary decisions of state administration bodies, assessing the “reasonableness” of public information requests.

This problem is to some extent mitigated by the existence of an appeal procedure against decisions refusing access to information or inactivity of administrative bodies. The independent Commissioner for Information of Public Importance, upon the request of the applicant, may order the relevant public body to grant access to the requested information. In practice, most of the cases submitted to the Commissioner concern administrative silence. In the vast majority of cases, the Commissioner decides in favour of the applicant (Figure 1).

Figure 1. Complaints handled by the Commissioner for Information of Public Importance in 2016



Source: Data provided by the Commissioner.

Accessibility of public information upon request, as assessed by citizens and businesses, is moderate. In the 2017 Balkan Barometer survey, 47% of citizens and 42% of business representatives declared that the requested information is usually complete, pertinent, provided in a timely manner and at reasonable cost³⁶⁷.

A comprehensive assessment of access to public information in practice is not possible due to a lack of data. While the Commissioner for Information of Public Importance is tasked with collecting statistical data on requests for public information, the vast majority of public authorities do not comply with the obligation to provide the Commissioner with relevant statistics (e.g. number of requests received,

³⁶⁷ Balkan Barometer, annual survey conducted by the RCC, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

accepted and refused³⁶⁸) or, in the case of a number of public bodies, are not obliged to report to the Commissioner at all.

The catalogue of information to be disclosed proactively by public authorities is established by the LFAI. The administration's transparency remains at a moderate level. SIGMA's review of websites of selected public bodies demonstrated that the information about organisational structures, tasks and heads of public bodies is disclosed proactively, although access to annual plans or reports is not ensured. In addition to this, the key datasets (e.g. laws, budgets, national statistics or results of public tenders) are easily accessible online. The Commissioner promotes a culture of transparency through trainings for civil servants, guidelines and other publications raising awareness about the LFAI.

Mechanisms for the supervision of the implementation of the LFAI are in place. However, the Government fails to ensure full enforcement of the Commissioner's decisions ordering central government bodies to disclose information requested by citizens³⁶⁹. Second, the Commissioner has the power to impose sanctions only in the case of non-execution of decisions ordering disclosure of public information. He/she cannot sanction the relevant bodies for other violations of the LFAI (e.g. failure to disclose information proactively on the websites of public institutions). In such cases, the responsibility for supervision of the implementation of the LFAI is assigned to the Administrative Inspectorate (AI), which can file a request with the Misdemeanour Court for sanctions against responsible civil servants³⁷⁰. This arrangement is questionable in terms of its effectiveness for the supervision of the implementation of the LFAI. There is no value added in involving the AI when there is already an independent institution specialised in access to public information that has expertise and the most comprehensive view of the major problems in this area.

The value for the indicator 'Accessibility of public information' is 4.

³⁶⁸ In 2016, of the 2 906 bodies obliged to report, only 811 submitted data to the Commissioner (data provided by the Commissioner).

³⁶⁹ Annual Report of the Commissioner for Information of Public Importance, 2016.

³⁷⁰ Information provided by the Ministry of Public Administration and Local Self-Government shows that there were 46 cases in 2016 where non-compliance with the LFAI led to sanctions being imposed on civil servants.

Accessibility of public information						
This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal and institutional framework for access to public information	
1. Adequacy of legislation on access to public information	8/10
2. Comprehensiveness of monitoring on the implementation of legislation on access to public information	4/5
Citizens' level of access to public information	
3. Proactivity in disclosure of information by state administration bodies on their websites (%)	2/5
4. Proactivity in disclosure of datasets by the central government (%)	5/5
5. Perceived accessibility of public information by the population (%) ³⁷¹	1/2.5
6. Perceived accessibility of public information by businesses (%) ³⁷²	1/2.5
Total ³⁷³	21/30

The legal and institutional framework promoting transparency of public institutions is in place. The Commissioner for Information of Public Importance ensures an effective right to appeal refusals or lack of response to public information requests submitted to state administration bodies. However, proactive disclosure of information on the websites of public institutions poses a challenge, and mechanisms for imposing sanctions for non-compliance with the LFAI are inefficient. The Commissioner has limited capacity to monitor this.

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

The legal status of the key oversight institutions (the Ombudsman, the courts and the SAI) is formulated in line with international standards. With regard to the Ombudsman, this has been confirmed by the highest grade in the accreditation process that measures compliance with the Paris Principles³⁷⁴. Independence of the Ombudsman is enshrined in the Constitution³⁷⁵, which also guarantees that all state administration bodies and private bodies performing public functions are subject to scrutiny of the Ombudsman. Guarantees of the Ombudsman's independence are not limited to immunity, but also include guarantees of the Ombudsman's autonomy with regard to management

³⁷¹ Balkan Barometer, annual survey conducted by the RCC, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

³⁷² *Ibid.*

³⁷³ Point conversion ranges: 0–5=0, 6–10=1, 11–15=2, 16–20=3, 21–25=4, 26–30=5.

³⁷⁴ International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, *ICC Sub-Committee on Accreditation Report*, March 2015.

³⁷⁵ Article 138 of the Constitution of the Republic of Serbia.

of budget and staff of the institution. However, due to special provisions of the Law on Civil Servants, autonomy in staff management is limited. The Ombudsman's office is required to submit its staffing plan to the MoF for approval³⁷⁶. This mechanism for ensuring control over staffing in the public sector applies to all public bodies, but in the case of independent oversight institutions (e.g. the Ombudsman), it interferes with their special status, which requires strict autonomy from the executive.

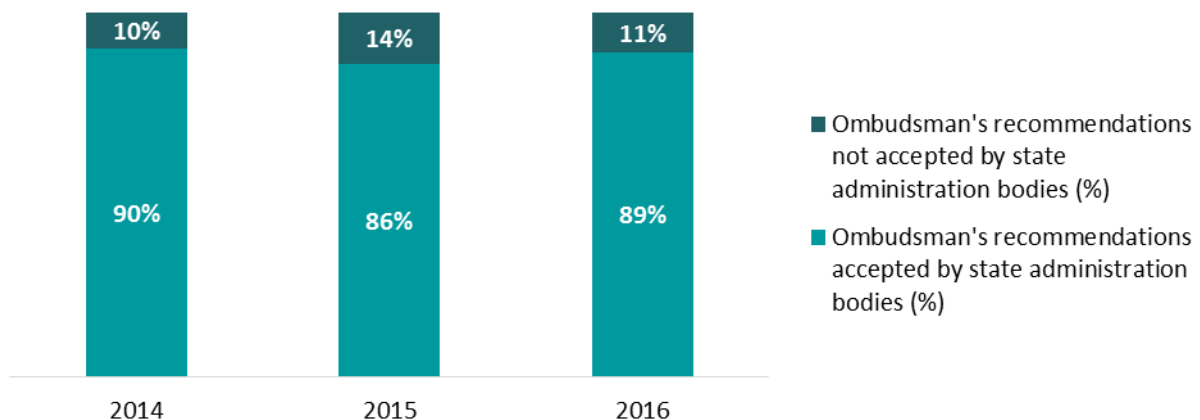
Another problem is insufficient support from the Parliament. The Ombudsman has not been invited to present his annual report for 2015 in plenary sessions of the Parliament. In June 2014, the Parliament urged the Government to report every six months on the implementation of the Ombudsman's recommendations, but the last report on this matter was submitted in May 2015³⁷⁷.

Procedural aspects of the investigations conducted by the Ombudsman are extensively regulated in the Law on the Protector of Citizens³⁷⁸. State administration bodies are required to co-operate with the Ombudsman by providing access to documents and premises (including detention facilities), and responding to its recommendations within the statutory deadline.

It should be noted that the Ombudsman in Serbia enjoys special rights in the law-making process compared to human rights institutions in other countries. It is entitled to submit legislative proposals to the Government or the Parliament for amendments of relevant law, if the violation of human rights cannot be mitigated without necessary changes to the legislation. Unusually for this type of institution, the Ombudsman is also explicitly allowed to demand the dismissal of an official responsible for a violation of human rights. This competence is used in practice very rarely (one request was submitted in 2016).

While the share of the Ombudsman's recommendations accepted by state administration bodies is high, there is no comprehensive procedure for monitoring implementation of the recommendations. Thus, it is not clear whether the high level of acceptance corresponds with an adequate level of compliance and whether it leads to a change in administrative behaviour.

Figure 2. Acceptance of the Ombudsman's recommendations (%)³⁷⁹



Source: Annual reports of the Ombudsman.

With respect to the judiciary, key guarantees of independence of the courts are recognised by the Constitution and primary legislation remains compatible with constitutional standards. Extra-judicial

³⁷⁶ The Law on Civil Servants, Article 156, Official Gazette Nos. 79/05, 81/05.

³⁷⁷ Information provided by the Parliament.

³⁷⁸ Law on the Protector of Citizens of 5 October 2005, Official Gazette Nos. 79/05, 54/07.

³⁷⁹ All types of recommendations are included (i.e. recommendations issued in ordinary and expedited procedures and recommendations issued within the framework of the National Preventive Mechanism).

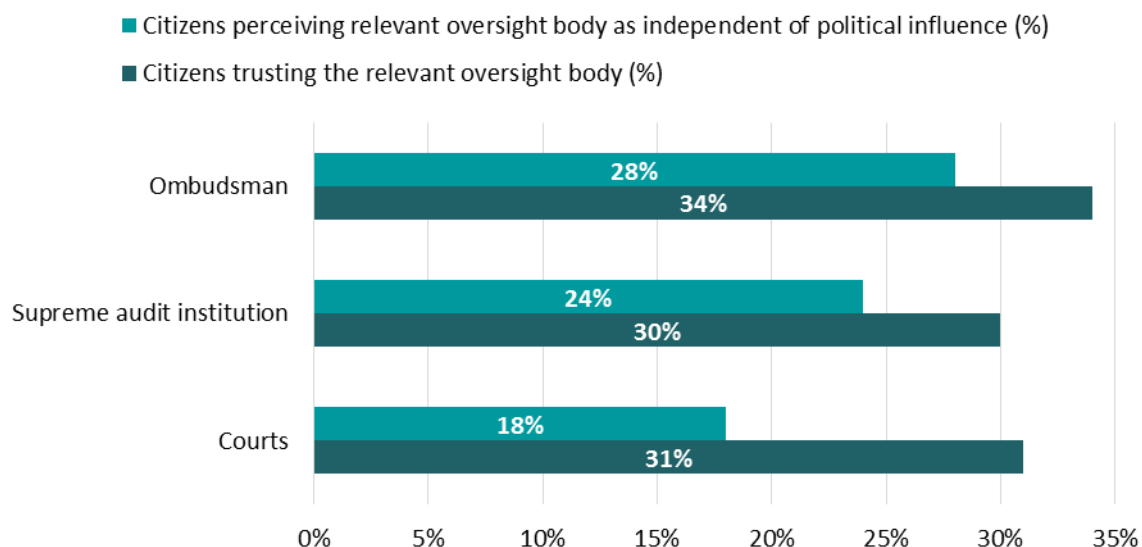
review of the courts' rulings is expressly excluded by the Constitution³⁸⁰. The Constitution also guarantees that the judges have permanent tenure, and termination of a judge's tenure of office is possible only upon the decision of the independent High Judicial Council (HJC). The HJC is also responsible for taking decisions on the selection and promotion of judges. Judges may not be detained or arrested for any criminal offence committed while performing their judicial functions without the approval of the HJC.

Article 96 of the Constitution of the Republic of Serbia provides sufficient overall independence for the SAI. The Law on the State Audit Institution (LSAI) provides independence for SAI Council Members and sufficient autonomy in managing its own budget and resources³⁸¹. The President and Vice President of the Council are elected by the assembly³⁸² and the SAI's mandate is broad, covering all public financial operations³⁸³. The LSAI guarantees that all documents will be provided to the SAI³⁸⁴, which operates independently, including publishing its reports and issuing recommendations.

The Committee on Finance, State Budget and Control of Public Spending is charged with handling SAI reports. The Committee formally adopted the 2015 SAI Annual Report in 2016, but it made no recommendations for follow-up.

Citizens' perception of the effectiveness of key oversight institutions (the Ombudsman, the courts, and the SAI) is somewhat sceptical. The Ombudsman enjoys the highest rate of trust among them, but even here the share of citizens trusting the institution is only 34%. The percentage of respondents who perceive the Ombudsman as being independent is even lower, at 28%³⁸⁵. The trust and perceived independence of courts and the SAI are even lower (Figure 3).

Figure 3. Citizens' trust in oversight institutions and perceived independence of oversight institutions



Source: 2017 Balkan Barometer survey, the Regional Cooperation Council.

³⁸⁰ The Constitution of the Republic of Serbia, Article 145.

³⁸¹ LSAI, Article 12, November 2005 (Official Gazette No. 101/05); Amending Law, May 2010 (Official Gazette No. 36/10).

³⁸² LSAI, Articles 19-24.

³⁸³ The Constitution of the Republic of Serbia, Article 92; LSAI, Articles 10 and 11.

³⁸⁴ LSAI, Article 36.

³⁸⁵ Balkan Barometer, annual survey conducted by the RCC, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

The value of the indicator 'Effectiveness of scrutiny of public authorities by independent oversight institutions' is 3.

Effectiveness of scrutiny of public authorities by independent oversight institutions						
This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal and institutional framework for oversight institutions	
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution	8/10
2. Legislative safeguards for the independence and adequate mandate of the SAI	9/10
3. Legislative safeguards for the independence of courts and judges	10/10
Effectiveness of oversight institutions	
4. Implementation of ombudsman recommendations (%)	4/8
5. Implementation of SAI recommendations (%)	6/8
6. Perceived independence of oversight institutions by the population (%) ³⁸⁶	0/5
7. Trust in oversight institutions by the population (%) ³⁸⁷	1/5
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%) ³⁸⁸	1/5
Total ³⁸⁹	39/61

The status of oversight institutions, including the Ombudsman and the SAI, is regulated in line with international standards. The share of acceptance of the Ombudsman's and SAI's recommendations is high but the actual level of real implementation remains unknown because there is no adequate monitoring mechanism. Independence of the Ombudsman is hampered by the control of the MoF over the staffing of the institution.

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

The right to submit cases to the Administrative Court is granted by the Law on Administrative Disputes³⁹⁰ to all individuals whose legal situation has been affected by an administrative action or omission. When the complaint relates to administrative silence, the court may order the respective body to issue an administrative act. There is an extensive catalogue of measures safeguarding the

³⁸⁶ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

³⁸⁷ *Ibid.*

³⁸⁸ *Ibid.*

³⁸⁹ Point conversion ranges: 0–10=0, 11–20=1, 21–30=2, 31–40=3, 41–50=4, 51–61=5.

³⁹⁰ Law of 29 December 2009 on Administrative Disputes, Official Gazette No. 111/09.

execution of court rulings. The deadline for challenging the administrative act meets the criteria set out in the Principles of Public Administration (30 days)³⁹¹.

Judicial review in administrative cases is limited to the single Administrative Court of first instance. Rulings of the Administrative Court could be subject to extraordinary review in strictly limited cases before the Supreme Court of Cassation³⁹². The remedy does not appear to comply with the Council of Europe's recommendation on judicial review of administrative acts, which requires a right to appeal for "important cases"³⁹³. The National Strategy for Judicial Reform envisaged the establishment of a two-tier administrative courts system³⁹⁴, but no progress has been made towards implementation of this objective.

Court fees in administrative cases, as set out in the Law on Court Fees, do not pose an obstacle in access to justice – the fixed fee for filing a case with the Administrative Court makes up 1% of the gross average wage. However, there is no adequate regulatory framework for legal aid in judicial proceedings³⁹⁵, despite constitutional guarantees of the right to assistance in this matter³⁹⁶.

The efficiency of the Administrative Court is a growing concern. Between 2015 and 2016, the clearance rate dropped by 15 percentage points to below 90%, which means that the backlog of cases is increasing (Figure 4). This leads to an excessive length of judicial proceedings. In 2016, the average time needed to complete a case reached almost 1.5 years, over three months more than in 2014 (Figure 5). This is much higher than the average calculated for 45 European countries in 2014, which was 341 days³⁹⁷. In March 2017, around 10% of the cases in the Court were pending for more than two years³⁹⁸.

³⁹¹ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p.59, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

³⁹² As a result of those limitations, in 2016 the Supreme Court of Cassation received only 666 administrative cases, which accounts for 3% of cases resolved by the Administrative Court (data provided by the Supreme Court of Cassation and the Administrative Court).

³⁹³ Recommendation No. 2004(20) on judicial review of administrative acts states that: "The decision of the tribunal that reviews an administrative act should, at least in important cases, be subject to appeal to a higher tribunal, unless the case is directly referred to a higher tribunal in accordance with the national legislation."

³⁹⁴ National Strategy for Judicial Reform for the period 2013-2018, adopted by the Parliament on 1 July 2013.

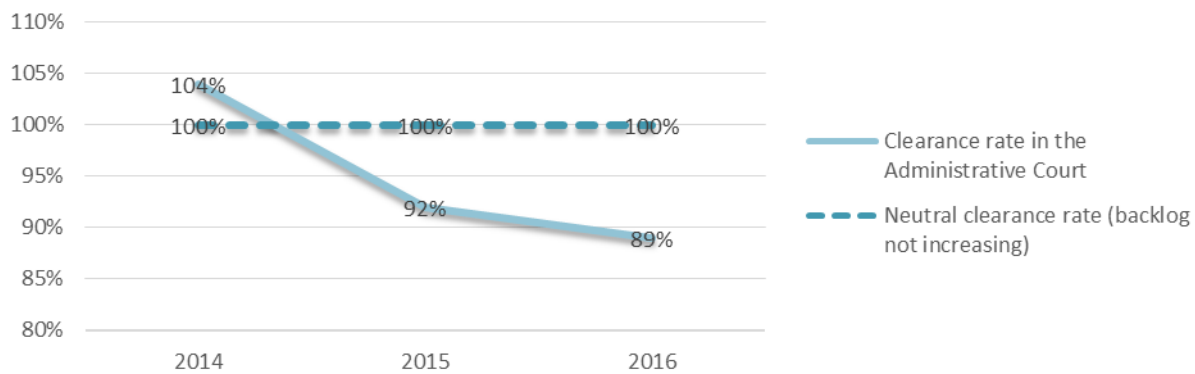
³⁹⁵ Further reading: YUCOM, *Pristup Pravdi I Besplatna Pravna Pomoć U Srbiji Izazovi I Reforme*, Belgrade 2013.

³⁹⁶ The Constitution of the Republic of Serbia, Article 32.

³⁹⁷ European Commission for the Efficiency of Justice (CEPEJ) (2016), *European Judicial Systems: Efficiency and Quality of Justice*, CEPEJ, Strasbourg.

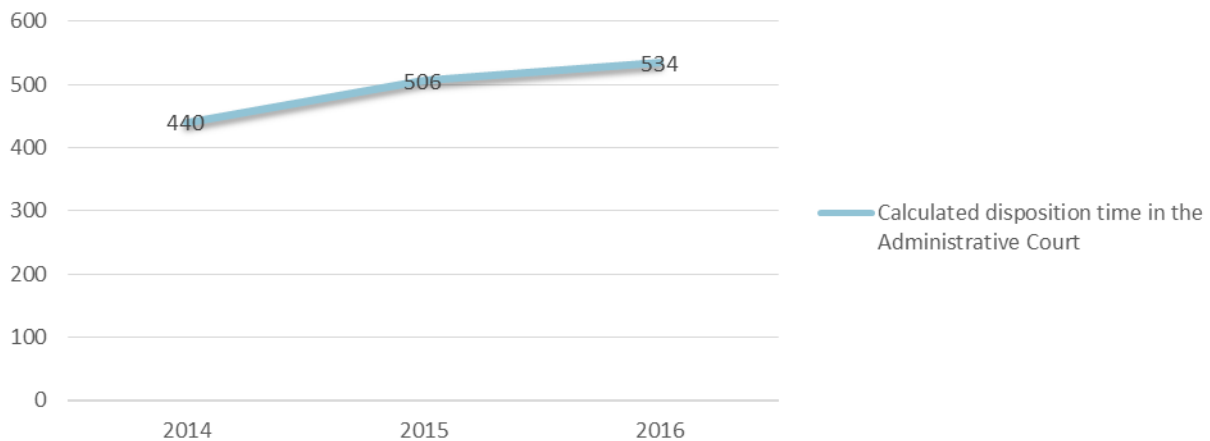
³⁹⁸ Data provided by the Administrative Court.

Figure 4. Clearance rate in the Administrative Court (2014-2016)



Source: Data provided by the Administrative Court; European Commission for the Efficiency of Justice (CEPEJ) (2016), *European Judicial Systems: Efficiency and Quality of Justice*, CEPEJ, Strasbourg.

Figure 5. Calculated disposition time (in days) in the Administrative Court (2014–2016)



Source: Data provided by the Administrative Court.

The problem of an excessive length of judicial proceedings has been primarily addressed by the adoption of the Law on Protection of Right to Trial in a Reasonable Time. While ensuring the right to compensation for delays in access to justice is a meaningful step, increasing the capacity of the Court should be the first priority. With a ratio of over 700 unresolved cases per judge at the beginning of 2017³⁹⁹, it is clear that the backlog cannot be resolved unless extraordinary measures are taken. Even though the number of legal assistants exceeds the number of administrative judges (which speeds up the work of judges), the appointment of new judges on a temporary or permanent basis is needed. Moreover, the huge backlog will lead to increased compensation payments in accordance with the Law on Protection of Right to Trial in a Reasonable Time.

It should also be noted that the procedure for seeking compensation guaranteed by the Law on Protection of Right to Trial in a Reasonable Time creates problems in practice. First of all, splitting the procedure for establishing a violation of the right to trial in a reasonable time and the procedure for seeking financial compensation creates an unnecessary burden on the applicant. Moreover, the Law allows the applicant to submit a request for amicable resolution of the complaint to the State Attorney's Office (SAO), but this procedure does not work in practice. In 2016, the SAO received 684 requests for compensation⁴⁰⁰, but none of them was resolved in favour of the applicant, because the

³⁹⁹ Ditto.

⁴⁰⁰ Data provided by the SAO.

SAO did not manage to reach agreement with the relevant courts on releasing payments (where the right to trial in a reasonable time is violated, compensation is paid from the court's budget)⁴⁰¹.

The public perception of the independence of courts from political influence is very low, with 18% of respondents perceiving the courts as independent⁴⁰².

The value for the indicator 'Fairness in handling of administrative judicial disputes' is 3.

Fairness in handling of administrative judicial disputes						
This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes. It covers the main criteria for an effective judiciary in efficiency, quality (including accessibility) and independence. Outcomes, in terms of case flow and public perceptions of independence are also measured.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of the judiciary	
1. Adequacy of the legislative framework for administrative justice	5/6
2. Accessibility of administrative justice	3/4
3. Effectiveness of remedies against excessive length of proceedings in administrative cases	2/2
4. Use of an electronic case-management system	1/1
5. Public availability of court rulings	1/2
6. Organisation of judges handling administrative justice cases	5/5
Performance of the administrative justice system	
7. Perceived independence of the judicial system by the population (%) ⁴⁰³	0/5
8. Calculated disposition time of first-instance administrative cases	1/5
9. Clearance rate in first-instance administrative courts (%)	3/5
10. Cases returned for retrial by a higher court (%)	5/5
Total⁴⁰⁴	26/40

The right to challenge administrative acts and omissions before the single Administrative Court of first instance is guaranteed. However, the Court suffers from an increasing backlog, resulting in an excessive length of proceedings.

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

The LSA establishes the general principle of state liability for "damage caused to natural and legal persons by unlawful and/or improper operations of state administration authorities"⁴⁰⁵. The detailed

⁴⁰¹ Ditto.

⁴⁰² Balkan Barometer, annual survey conducted by the RCC, <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>.

⁴⁰³ *Ibid.*

⁴⁰⁴ Point conversion ranges: 0–6=0, 7–13=1, 14–20=2, 21–27=3, 28–34=4, 35–40=5.

⁴⁰⁵ LSA, Article 5.

legal framework for seeking compensation is based on the provisions of the Law on Obligations⁴⁰⁶ relating to the liability of legal persons for injury or loss caused by their members or organs.

The right to compensation stemming from this Law is guaranteed to everyone, without discrimination based on any ground. It is also clear that private bodies performing public functions are not excluded from the liability regime. The time limit for submitting a case to the court is three years. Fair compensation is ensured, as it covers both direct loss and loss of profit.

In public liability cases, the state is represented by the SAO. According to information received from this institution, the Law on Obligations is widely applied in practice for state liability cases. However, due to the lack of an electronic case-management system, the SAO is not able to present any statistical evidence for the application of state liability in practice. There is no separate line in the state budget for payments based on Article 172 of the Law on Obligations.

The value for the indicator 'Functionality of public liability regime' is 2.

Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework for public liability	
1. Comprehensiveness of the scope of public liability	1/1
2. Coverage of the public liability regime to all bodies executing public authority	1/1
3. Non-discrimination in seeking the right to compensation	1/1
4. Efficiency and fairness of the procedure for seeking compensation	3/3
Practical implementation of the right to seek compensation	
5. Application of the public liability mechanism in the court in practice	0/3 ⁴⁰⁷
6. Proportion of entitled applicants receiving payments	0/3 ⁴⁰⁸
Total ⁴⁰⁹	6/12

The Law on Obligations provides legal grounds for seeking compensation for damage caused by acts of state administration bodies. Statistical data on the courts' application of the liability regime in practice is not collected in a systematic manner, which hampers assessment of its implementation.

Key recommendations

Short-term (1–2 years)

- 1) The Government should develop a regulatory framework, ensuring that changes in the organisation of government (e.g. the creation of new bodies, the merger and abolition of institutions, and shifts in powers and competences) are preceded by comprehensive *ex ante* analysis.

⁴⁰⁶ The Law of 1978 on Obligations, Official Gazette No. 29/78.

⁴⁰⁷ No data provided.

⁴⁰⁸ Ditto.

⁴⁰⁹ Point conversion ranges: 0–2=0, 3–4=1, 5–6=2, 7–8=3, 9–10=4, 11–12=5.

- 2) The liability scheme established by the Law on Access to Information should be amended to enable the Commissioner for Information of Public Importance to conduct inspections and file requests for sanctions for non-compliance with the Law directly with the Misdemeanour Court.
- 3) The Commissioner for Information of Public Importance, together with the Government, should ensure that all bodies required to report to the Commissioner do so, to enable effective monitoring of the right to public information.
- 4) The Ombudsman institution should be allowed to manage its staff independently of the executive, by being exempted from Ministry of Finance approval for its staffing plans.
- 5) The Ministry of Justice, in close co-operation with key stakeholders (e.g. the HJC and the Administrative Court), should develop and urgently implement an action plan aimed at reducing the backlog of cases in the Administrative Court. This plan may include, in particular, ensuring funds for at least a temporary increase in the number of judges in the Court and establishing a special mechanism for the regular monitoring of the Court's workload.
- 6) The Government should develop a draft law on legal aid and should secure adequate funding for this area.

Medium-term (3–5 years)

- 7) The Government should develop a results-oriented governance framework for all bodies subordinated to the executive, ensuring that each body has specific and measurable objectives set on a regular basis, accompanied by clear and easy-to-monitor indicators and targets.
- 8) The Government, in co-operation with the SAO, should introduce mechanisms to monitor court cases that result in the liability of the State, with the goal of improving administrative procedures and decisions and thus reducing public-liability cases in the future.



SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

The Government has achieved some visible service delivery improvements in selected areas. It is now much easier to register a new company or request a commercial construction permit. The parental obligation to register a newborn child has been simplified and can be handled by clerical staff in a growing number of hospitals. The challenge now is to expand and scale up these initial good practices across an administration where technical readiness varies and administrative burdens persist, especially in specialised legislation. Most procedures still require multiple paper-based submissions and individual fee payments, creating inefficiencies, burdens and entry points for bribery.

In a number of strategies and action plans, the Government has clearly expressed its commitment to ensuring citizen-oriented service delivery and reducing administrative burdens. However, the various activities and actors working on service delivery are not always well co-ordinated, which can create unnecessary gaps and duplications in a context of high fiscal and human-resource pressures.

A new Law on General Administrative Procedures (LGAP) was adopted in March 2016⁴¹⁰, including improvements on applicability, legal remedies and electronic communications compared to the previous General Law. Citizens are no longer required to resubmit data or information which the administration already has on file. The practical application of this “once-only” principle hinges on the public administration’s limited readiness to exchange data electronically, as well as on relatively ineffective mechanisms to reduce and avoid administrative burdens.

The Government has no established mechanisms to take a helicopter view of the actual performance of service delivery and user experience across the administration. No central dashboard or information system exists to periodically collect and compare fundamental service data (e.g. transaction volumes, costs, satisfaction rates, complaints and digital take-up rates). There is no effective promotion of quality management or best practices in user orientation, because of missing capacities and human resources.

Some central digital enablers are well used. For example, business users have widely adopted the digital signature to access administrative services. But personal use is still marginal, due to a lack of convenience (a physical card reader is required) and too few services that individual citizens can use it for. The varying quality and digitisation of main registers is a major challenge, limiting the administration’s capacity to design more citizen-oriented services.

The accessibility of public services has somewhat improved, thanks to the re-engineering of processes into digital or physical one-stop shops. While the online service portal provides convenient access to information and a small but growing number of transactional services, the lack of data makes it hard to evaluate progress. The policy framework for serving people with disabilities is largely in place, but little effective monitoring takes place of service delivery arrangements and access barriers.

1.2. Main developments

The following section describes key changes and main developments in the public administration under the key requirement⁴¹¹ and four Principles, based on the indicators used in the SIGMA 2015 Baseline

⁴¹⁰ Official Gazette No. 18/2016.

⁴¹¹ OECD (2017), *The Principles of Public Administration*, OECD, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

Measurement Reports.

The Government has adopted several strategies and action plans focusing on citizen-oriented service delivery. Under the umbrella of the 2014 Public Administration Reform (PAR) Strategy, the Government has adopted the e-Government Strategy for the period 2015-2018 and a Regulatory Reform Strategy 2016-2020. Further strategies also contain objectives or activities focusing on reforming administrative service delivery, notably the Stop to Bureaucracy Action Plan (adopted in 2016), the National Programme Countering the Shadow Economy (adopted in 2015), the Open Government Partnership (OGP) Second National Action Plan 2016-2018, and the ERP 2016-2018.

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

The Stop to Bureaucracy Action Plan (2016) stands out for its conciseness and focus on identifying and eliminating tangible administrative obstacles in citizens' life events. The Prime Minister's Office has established a Delivery Unit to develop and co-ordinate implementation of the Plan.

In parallel to developing a strategic framework, the Government has experimented with – and, to some degree, achieved – radical transformation of service delivery. There is evidence of simplified administrative procedures for specific life events such as registering a newborn child, starting a company and requesting a commercial construction permit. However, paper-based and redundant procedures persist in many other areas. Use of Regulatory Impact Assessments (RIAs) has improved, but it is not yet sufficiently systematic and effective to reduce and prevent administrative burdens.

The new LGAP, adopted in 2016, contains several improvements designed to further protect citizens against maladministration. The process of harmonising regulations with the new LGAP faces serious resource issues. Practical application of the “once only” principle is still limited, owing to the different quality levels of key registers and the lack of interoperability among registers.

The Government has made little progress in using common service delivery enablers. Very little data is centrally collected or analysed to measure user perception or the objective performance of public service delivery. There are not enough central resources available to promote quality management, design thinking or user orientation.

The situation is better when it comes to digital enablers. Significant progress has been made in increasing the use of digital signatures, although almost exclusively by businesses. The central online service portal⁴¹² provides convenient access to information and a small but growing number of transactional services. Use of digital services is high among businesses (including some mandatory services like declaring taxes) and still modest but growing among citizens (e.g. online tax declarations). Modest use of digital services among citizens is partly due to low adoption of digital signatures.

Under the PAR Council, an e-Government Working Group comprising government and non-government representatives was created and first met in 2016. It is headed by the e-Government Directorate at the MPALSG⁴¹³.

The policy framework for serving people with disabilities has notably improved. However, there is a lack of data and monitoring to systematically identify and reduce access barriers.

⁴¹² <http://euprava.gov.rs>.

⁴¹³ The e-Government Directorate is to become the Office for IT and Electronic Administration, which will report directly to the Government and the Prime Minister.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁴¹⁴

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which citizen-oriented policy for service delivery is in place and applied.	4	4
	Extent to which policy and administrative preconditions for e-service delivery are applied.	4	4
	Extent to which the legal framework for good administration is in place and applied.	2	4
Quantitative	Expenditure on general public services as a share of gross domestic product.	15.9% ⁴¹⁵	Not available ⁴¹⁶
	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	Not available ⁴¹⁷	Not available ⁴¹⁸
	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.		
	A. Passport	4.8 ⁴¹⁹	1-4 days ⁴²⁰
	B. ID	4.8 ⁴²¹	2-5 days ⁴²²
	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years) ⁴²³ .	Not available ⁴²⁴	Not available ⁴²⁵
	Average number of days needed to set up a business ⁴²⁶ .	12	7

⁴¹⁴ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁴¹⁵ Data provided by the MoF.

⁴¹⁶ No data provided.

⁴¹⁷ Serbia does not have data covering the whole governmental administration.

⁴¹⁸ Ditto.

⁴¹⁹ The number of days. Information provided by the MPALSG.

⁴²⁰ Data provided by the Ministry of Interior (Mol).

⁴²¹ The number of days. Information provided by the MPALSG.

⁴²² Data provided by the Mol.

⁴²³ Serbia does not have data covering the whole governmental administration.

⁴²⁴ Ditto.

⁴²⁵ Ditto.

⁴²⁶ According to World Bank (2015 and 2017), *Doing Business*, International Bank for Reconstruction and Development/The World Bank, Washington, DC.

Serbia
Service Delivery

	Average cost of setting up a business ⁴²⁷ .	6.8%	6.5%
	Share of citizens who submitted paperless/electronic/digital income tax statements last year ⁴²⁸ .	0%	33.5%
	Share of companies that sent their tax declarations using the Internet ⁴²⁹ .	0%	100%

⁴²⁷ Percentage of income per capita, according to World Bank (2015 and 2017), *Doing Business*, International Bank for Reconstruction and Development/The World Bank, Washington, DC.

⁴²⁸ This indicator is about annual personal income tax (PIT) returns. Data provided by the Tax Administration, Ministry of Finance (MoF).

⁴²⁹ This indicator is about annual corporate income tax returns. Data provided by the Tax Administration, MoF.

2. ANALYSIS

This analysis covers four Principles for the service delivery area grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators⁴³⁰, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

Since 2015, the Government has clearly prioritised service delivery. This is visible in the number of strategies and action plans it has adopted (see Section 1.2 Main Developments). There is, therefore, no lack of strategic programmes and directions for service delivery and digitisation. If anything, their recent multiplication poses some problems in terms of the prioritisation and efficient allocation of scarce resources.

The Stop to Bureaucracy Action Plan (2016) is by far the most concise and result-oriented plan. It presents a list of specific administrative burdens facing citizens and businesses when dealing with specific “life events”, and proposes a clear roadmap for reducing those burdens. The Government’s experimentation with life-event approaches has led to positive results of service delivery transformation, some of which even predated the Action Plan:

- 1) Under the slogan “Welcome to the World, Baby”, administrative requirements for parents to register a new born child have been simplified. Using an online service portal⁴³¹ and a digital

⁴³⁰ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁴³¹ www.euprava.gov.rs.

signature, the hospital's clerical staff can submit data to several State registers (civil status, address, citizenship and health insurance) instead of the parents⁴³².

- 2) Since the creation of a one-stop shop in 2009, new business registration has been continuously simplified. The Serbian Business Registers Agency transfers data electronically to the Tax Administration, Social Security, the Central Bank and the National Statistical Office. Serbia ranks 47th in the related "Ease of Doing Business" category in the World Bank's *Doing Business 2017*.⁴³³
- 3) Construction permits have undergone a major overhaul since 2014. Following a revision of the legal and regulatory framework, a central "e-permit" system was created, covering over 1 000 different institutional actors (including all the municipalities). The electronic exchange of cadastral, land-ownership, zoning and other data has significantly reduced issuing times and in-person visits, without jeopardising process quality⁴³⁴. The results are appreciated by the business community⁴³⁵ and have helped Serbia jump 116 ranks to 36th in the related "Ease of Doing Business" category, 2017⁴³⁶.

Despite these promising efforts, the Government faces challenges in expanding service delivery reforms. Most administrative services remain paper-based, entailing repeated submissions of information and levying of fees. Not only does this lead to inefficiencies and burdens, it also creates numerous entry points for corruption and bribery, which remain a problem and source of frustration for citizens⁴³⁷.

The different levels of digitisation of the national registers have an impact on many services. While the "Welcome to the World, Baby" programme is a relief for parents, the civil-status and citizenship registers are not fully digitised, and the internal workflow still relies on both digital and paper-based data exchanges. A related service for claiming parental allowances remains burdensome for parents and employers, who are required to submit information already in the administration's possession (e.g. previous children's birth certificates⁴³⁸).

The multiplication of strategies and action plans pulls very strained resources in sometimes different directions. While some activities are "repackaged" to suit different strategies and do not put additional pressure on the administration, others create added burdens. The current governance setup around the PAR Council and its working groups primarily focuses on co-ordinating the PAR and subordinate strategies, which leads to co-ordination gaps with other strategies and heightens the risk of inefficient deployment of resources in a context of high fiscal and human-resource pressures.

The risk of inefficient deployment of scarce resources is particularly visible at the MPALSG. The Ministry employs just over 100 civil servants⁴³⁹, yet has an extremely broad mandate. This strains its resources and creates a risk of inefficiencies. For example, there is no effective assistance or monitoring of service delivery transformation. While implementation of PAR is well monitored, and

⁴³² <http://www.mduls.gov.rs/english/aktivnosti-saopstenja.php#a311>.

⁴³³ www.doingbusiness.org/data/exploreeconomies/serbia#starting-a-business.

⁴³⁴ Issuance times have dropped from 272 days to 156 days, with Serbia maintaining a score of 13/15 in the quality control index. See World Bank *Doing Business*, www.doingbusiness.org/data/exploreeconomies/serbia#dealing-with-construction-permits, and National Alliance for Local Economic Development (NALED), <http://naled.rs/>

⁴³⁵ United States Agency for International Development (USAID) (2016), "Survey of 1000 companies", 17 November, USAID, Washington, DC, http://policycafe.rs/english/business-surveys_en.php.

⁴³⁶ www.doingbusiness.org/data/exploreeconomies/serbia#dealing-with-construction-permits.

⁴³⁷ Mentioned by various interlocutors during interviews and supported by the Transparency International Corruption Perceptions Index. Serbia scores only 39/100, which places it 83rd out of 176 countries.

⁴³⁸ Measure 4.1 in NALED (2017), "NALED Grey Book 9", <http://naled.rs/>

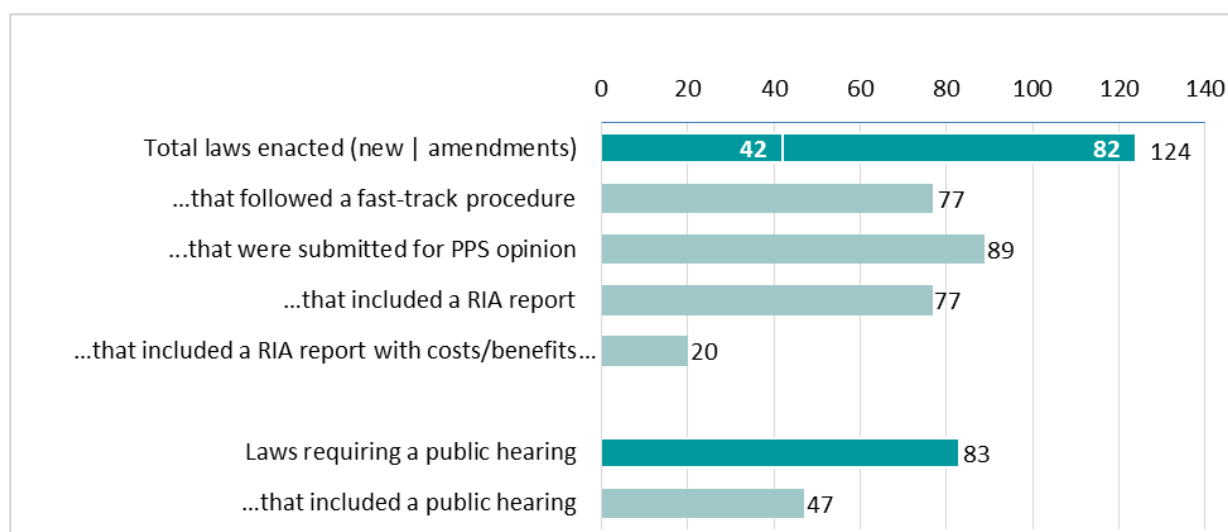
⁴³⁹ The MPALSG mandate includes PAR (co-ordination, implementation and technical support), digital government, the LGAP, administrative inspections, local self-government policy, civil-status registers, civil-service employment and roles in the Stop to Bureaucracy Action Plan and OGP.

detailed reports are regularly made public⁴⁴⁰, the monitoring focuses on activities and gives little indication of any tangible improvements or results achieved (see also Principle 3).

Central assistance for digital government is more effective. The MPALSG and two other institutions provide assistance and mechanisms for digital service delivery⁴⁴¹. While some synergy losses have been identified in this three-actor governance setting, they are not a major concern⁴⁴². What is more problematic is that none of the institutions (or the e-Government Working Group created under the PAR Council) has formal authority to review or monitor government IT projects across the board. Ministries have full autonomy to conduct digitisation projects without conducting a systematic review of the business case. This creates high risks of digital investments that overlap, duplicate or do not fulfil their intended purpose.

RIAs have limited impact on reducing and preventing administrative burdens. RIAs have been mandatory for new laws since 2006: the Government Rules of Procedure explicitly demand an estimation of administrative burdens (Articles 39 and 40), and the Public Policy Secretariat provides detailed guidance (e.g. on using the standard cost model⁴⁴³). But although RIAs are more frequently included with new legislation than previously, the levels of compliance and quality are not sufficient to systematically prevent and reduce administrative burdens. Fast-track procedures remain common (62% of laws enacted in 2015 and 65% in 2016⁴⁴⁴), few RIA reports contain a solid cost-benefits analysis and public hearings only take place in around one-half of the cases (Figure 1)⁴⁴⁵.

Figure 1. Legislative activity, RIA and public hearings, 2015



Source: Based on National Alliance for Local Economic Development (NALED) (2016), *"Regulatorni Indeks Srbije 2015/16"*, NALED, Belgrade, <http://naled.rs/>

Overall, the value for the indicator 'citizen-oriented service delivery' is 3.

⁴⁴⁰ <http://www.mduls.gov.rs/english/reforma-javne-uprave.php>.

⁴⁴¹ The MPALSG e-Government Directorate (digitisation of government services); the Ministry of Trade, Tourism and Telecommunications (MTT) (information society, including digital signatures); and the Administration for Joint Services of the Republic Bodies (information technology operations and procurement).

⁴⁴² Internal document prepared by World Bank (2016), "Republic of Serbia. Horizontal functional review of the central administration".

⁴⁴³ <http://www.rsjp.gov.rs/analiza-efekata-propisa>.

⁴⁴⁴ For more details, see the chapter on Policy Development and Co-ordination.

⁴⁴⁵ Data is only available for laws because secondary legislation (i.e. by-laws) is not covered by RIA obligations. NALED monitors the implementation of 25 selected laws and has so far recorded adoption of 280 related by-laws and preparation of another 146 by-laws, <http://naled.rs/>

Citizen-oriented service delivery					
<p>This indicator measures the extent to which citizen-oriented service delivery is defined as a policy objective in legislation or official government plans and strategies. It furthermore measures the progress of implementation and evaluates the results achieved, focusing on citizens and businesses in the design and delivery of public services.</p> <p>Implementation and results are evaluated using a combination of quantitative and perception-based metrics.</p>					
Overall indicator value	0	1	2	3	4 5

Sub-indicators	Points
Policy framework for citizen-oriented service delivery	
1. Existence and extent of application of policy for service delivery	6/8
2. Existence and extent of application of policy for digital service delivery	6/8
3.. Existence of central co-ordination for digital government projects	0/4
4.. Established policy for administrative simplification	10/12
Performance of citizen-oriented service delivery	
5. Perceived quality of public service delivery by citizens (%)	0/6
6. Renewing personal identification document	3/6
7. Register a personal vehicle	2/6
8. Declaring and paying personal income taxes	3/6
9. Perceived quality of public service delivery and administrative burdens by businesses (%)	2/6
10. Starting a business	5/6
12. Obtaining a commercial construction permit	3/6
13. Declaring and pay corporate income taxes	6/6
14. Declaring and pay value added taxes	5/6
Total⁴⁴⁶	51/86

The Government has made genuine efforts and achieved some results in improving administrative services for citizens and businesses. This is partly reflected in the indicator value. However, major challenges remain, limiting the Government's capacity to design and deliver more citizen-oriented services. The multiple strategies are not always well co-ordinated and risk creating inefficient allocation of scarce resources for service improvement, and key registers are at different levels of quality and digitisation. There is little central capacity to monitor performance on service delivery and assist line ministries and agencies in transforming service delivery. While RIAs are conducted more frequently than previously and are improving in quality, they are not yet sufficient to systematically prevent or reduce administrative burdens.

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

Serbia has had a law governing general administrative procedures (the LGAP) for most of the 20th century continuing into the 21st century. Since 1997, the LGAP has provided protection against maladministration, even though it was not aligned with European Union (EU) practices and principles

⁴⁴⁶ Point conversion ranges: 0-14=0, 15-28=1, 29-42=2, 43-56=3, 57-70=4, 71-86=5.

(e.g., legal remedies are numerous, but not comprehensive)⁴⁴⁷. The new LGAP, adopted in 2016, features major improvements⁴⁴⁸:

- It has a broader scope of application and much greater authority over specialised regulation (Article 3).
- It introduces detailed and comprehensive provision for legal remedies, in the form of appeals (Articles 151-174), complaints (Articles 147-150) and restoration of the status quo (Articles 82-83).
- It has been updated to reflect digital developments. Electronic communications, notifications, rulings and documents are regarded as equal to their paper-based equivalents and electronic signatures are explicitly recognised (Articles 56, 57, 70, 118 and 140).
- It introduces administrative “one-stop shops” to facilitate service delivery at single points of contact (Article 42).
- It establishes an effective “once-only” principle, whereby institutions are obligated to obtain existing data from other public-sector institutions instead of asking citizens to (re)submit such data (Articles 9, 103 and 207). The provision already formally existed, but had a limited scope of application and was not detailed enough to be practically relevant. The new LGAP sets timelines for obtaining data from other institutions (15 days), encourages electronic transfer and institutes misdemeanour fines for non-compliance.

The “once-only” provisions came into effect in June 2016, and the rest of the Law came into force in June 2017. By 1 June 2018, all specialised legislation is to be harmonised with the new LGAP. This represents a major workload and a serious short-term challenge for the administration.

Enforcement of the “once-only” principle will be critical to simplify service delivery. Today, the most popular services on the online service portal⁴⁴⁹ are requests for birth and citizenship certificates⁴⁵⁰. Many of these paper-based certificates are required in interactions with the administration itself. The Stop to Bureaucracy Action Plan recognises this challenge, and identifies administrative procedures that are particularly demanding for citizens or businesses.

The challenge is great, because digitisation levels and the quality of key registers vary considerably across the administration. The gap between legal obligation and technical preparedness sometimes leads to paradoxes. Administrative processes can now be more protracted, because administrators often request data and documents through traditional channels, such as paper mail. To save time, citizens are sometimes encouraged to revert to obtaining all the required information by their own means. The resolution of this problem will depend on the administration’s capacity to digitise registers and facilitate direct exchanges of electronic data (see Principle 3).

A challenge in implementing the entire LGAP is the large body of specialised regulations around administrative procedures. The MPALSG has compiled a repository of around 200 laws and regulations that define administrative procedures and need to be checked for compliance with the LGAP. The non-governmental organisation National Alliance for Local Economic Development (NALED) has identified almost 400 non-tax payments levied on businesses and individuals, many of which pertain to the same

⁴⁴⁷ Official Gazette No. 33/1997 and 31/2001. See also Regional School of Public Administration (ReSPA), 2016, *Legal Remedies in Administrative Procedures in Western Balkans*, Regional School of Public Administration, Danilovgrad, Montenegro, pp. 93-96.

⁴⁴⁸ Official Gazette No. 18/2016.

⁴⁴⁹ <http://euprava.gov.rs>.

⁴⁵⁰ Information provided by MPALSG, although no detailed data has been provided on transaction volumes.

services or have no explicit policy rationale⁴⁵¹.

The Government has very limited capacity to harmonise existing regulations and check new ones for compliance with the LGAP. RIAs have had a limited effect because of exceptions, quality and compliance issues (see Principle 1). The ambition of the MPALSG to track every new piece of primary and secondary legislation, while harmonising all existing regulations with the LGAP by June 2018, conflicts with its strained resources. The risk of new administrative burdens falling through the loopholes of central control is high and needs to be mitigated.

Open government practices are emerging to support good-administration reforms. Serbia joined the OGP and submits to the independent review mechanism (IRM). The draft IRM evaluation report for 2014-2016 notes some improvements (e.g. in using digital technology for more open government⁴⁵²). However, little collaboration takes place overall between the Government and civil society. Transformation of the process for issuing construction permits is a good example of effective collaboration between the Government and non-governmental actors, but remains an exception. Overall, the administrative culture does not yet promote openness actively enough.

The lack of more proactive engagement is visible in the area of open data, which is not being leveraged to improve service delivery and administration. The MPALSG is the designated steward for open government data, but efforts so far have focused on technical aspects, such as identifying datasets, determining formats and designing a data portal. There is no evidence of content-level collaboration in areas where reusing public-sector data could help tackle specific challenges, prove the benefits of open data and build mutual trust and capacities within the public administration and wider society⁴⁵³. The harmonisation of national address registers could provide such an opportunity (Box 1).

Box 1: Harmonisation of address registers through open data in France.

France is a leader in leveraging open data to achieve tangible service delivery and public-policy objectives. The country has utilised open data to create a harmonised national address register for use by individuals, businesses and the public administration. The underlying challenge was similar to that currently perceived in Serbia: missing georeferences and different denominations for identical geographic locations (buildings, streets, landmarks) across the registers of public institutions. This results in major problems when cross-checking, cross-referencing or geocoding data in information systems used for taxation, urban planning, social services, and so on. To tackle this challenge, the French Government embarked on a collaboration with state institutions (including the Ministry of Interior and National Geographic Institute), municipalities, semi-public institutions (La Poste) and civil society (OpenStreetMap France). An open source beta version of the harmonised national address register was made available in 2015⁴⁵⁴ and is continuously being improved.

Sources: <http://www.etalab.gouv.fr/the-first-french-collaborative-national-address-database-is-now-online-and-freely-accessible> and <http://www.oecd.org/gov/digital-government/open-government-data.htm>.

Overall, the value for the indicator 'Fairness and efficiency of administrative procedure' is 3.

⁴⁵¹ <http://naled.rs/>.

⁴⁵² Draft Serbia End-of-Term Report 2014-2016, prepared by the European Policy Centre (CEP), <https://www.opengovpartnership.org/country/serbia/irm>.

⁴⁵³ Also CEP (2016), *Demanding open data in Serbia: Role of think tanks and research based civil society organisations*, www.europeanpolicy.org/images/open_data/demanding_open_data_in_serbia.pdf.

⁴⁵⁴ <https://adresse.data.gouv.fr>.

Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework for administrative procedure	
1. Existence of legislation on administrative procedures of general application	3/3
2. Adequacy of law(s) on administrative procedures to ensure good administration	7/7
Fairness and efficiency of administrative procedures	
3. Perceived efficiency of administrative procedures in public institutions by citizens (%)	1/4
4. Repeals of or changes to decisions of administrative bodies made by the administrative courts (%)	0/4 ⁴⁵⁵
Total⁴⁵⁶	11/18

The new LGAP enhances safeguards against maladministration. A major improvement compared to the 1997 version lies in its detailed provisions for the “once-only” principle. However, practical application poses short-term challenges because the administration is not fully prepared for electronic data exchanges. Practical application will also depend on developing more effective mechanisms for RIAs and harmonising sector-specific legislation. The Government is taking some steps towards establishing greater openness and co-operation with civil society but there is too little genuine collaboration, which also limits progress on open government data.

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

There is almost no central monitoring of user perception or actual service delivery performance. Even though the MPALSG has the mandate to monitor and harmonise service delivery quality, it currently has neither the resources nor the mechanisms to do so. No common benchmark exists for what constitutes quality in service delivery⁴⁵⁷. In addition, there is no system to regularly collect, present and analyse basic data, such as transaction volumes, costs, user-satisfaction rates, complaint numbers and channel choices, to assess performance against any standard.

Non-governmental actors fill the gap in measuring the performance of service delivery through, for example, perception surveys of businesses (Figure 2) and performance monitoring of the issue of construction permits⁴⁵⁸. Other organisations survey citizens about their perception of administrative services, such as the issue of personal ID documents by the police (over 60% of citizens are satisfied)⁴⁵⁹. However, the Government does not leverage such good practices well enough for its own needs.

⁴⁵⁵ No data provided.

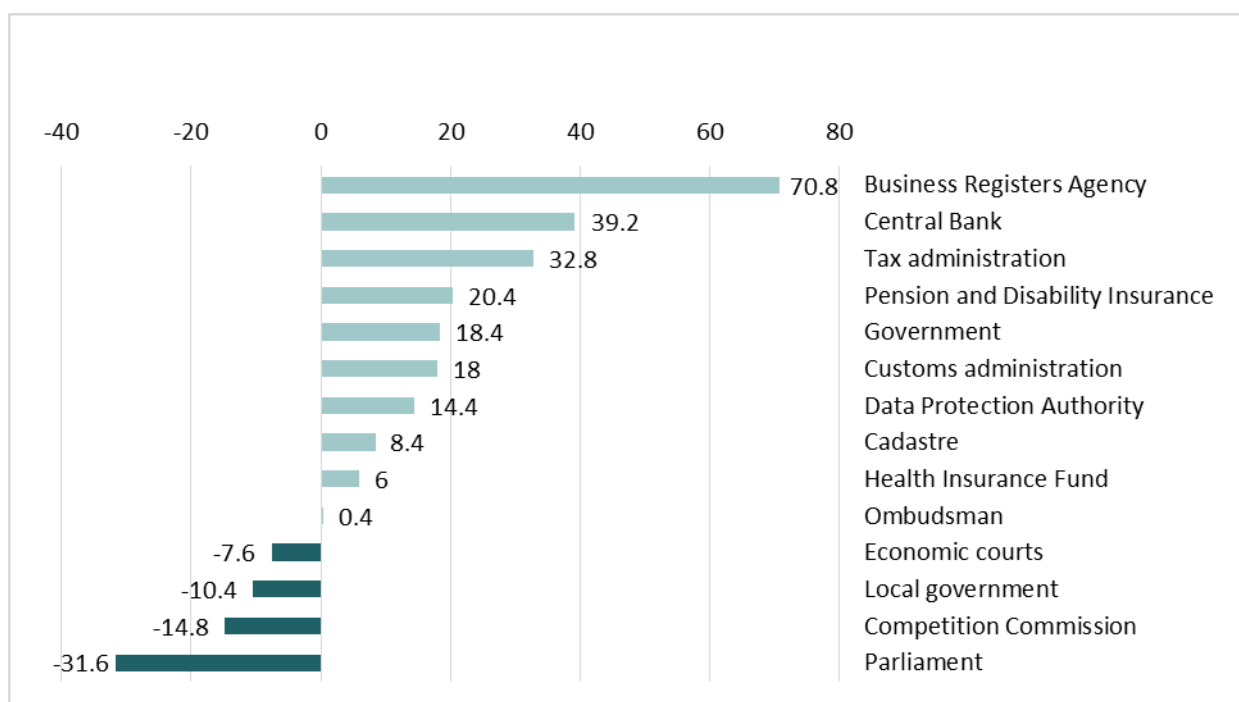
⁴⁵⁶ Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

⁴⁵⁷ Good international practice: French Service Standard “Marianne”, www.modernisation.gouv.fr/documentation/referentiels/le-referentiel-marianne-nouvelle-version.

⁴⁵⁸ Done by NALED: <http://gradjevinskedoazole.rs/statistika-izdavanja-dozvola-obavestjenje-2463>.

⁴⁵⁹ Done by CEP and EPuS: <http://cep.org.rs/odrzana-konferencija-za-medijske-ja-u-centru-paznje/>.

Figure 2. Business perception of individual state institutions, 2016⁰



Source: SIGMA calculations based on business survey conducted by USAID in co-operation with National Alliance for Local Economic Development (NALED) (2016), "Survey of 1 000 companies", 17 November, http://policycafe.rs/english/business-surveys_en.php.

Central monitoring and support for digital service delivery is more developed. The e-Government Directorate of the MPALSG provides central assistance and infrastructure for public-sector digitisation, collecting transactions data for digital services accessed through the online service portal⁴⁶⁰. The Ministry of Trade, Tourism and Telecommunications (MTTT) collects data on digital-signature certificates (see Figure 3).

A National Interoperability Framework has been adopted, but is not yet complete. The MPALSG has developed technical standards for data exchange and operates a data exchange infrastructure (Government Service Bus, [GSB]). However, only one of the three good examples of service transformation mentioned under Principle 1 (Welcome to the World, Baby) currently uses the GSB. The others use alternative data-exchange infrastructures. What is missing is a Government-wide roadmap for interoperability with commonly agreed services, timelines and objectives for development and deployment⁴⁶¹.

Electronic data exchanges are hampered by the varying quality and digitisation of national registers. Some registers are completely digital and ready for data exchanges (e.g. social security records or the register of businesses). Other registers (civil status, citizenship and land) have legacy challenges that hold the administration back. Address registers also pose a challenge that has been identified by the MPALSG and the Interministerial Working Group on e-Government (see Box 1).

The framework for personal data protection is not fully suited for more exchange of and access to the personal data contained in registers. The Law on Personal Data Protection⁴⁶² established a Commissioner for Personal Data Protection (the institution also deals with free access to public sector information). However, the Commissioner repeatedly highlights that mandatory reporting of personal

⁴⁶⁰ <http://euprava.gov.rs>.

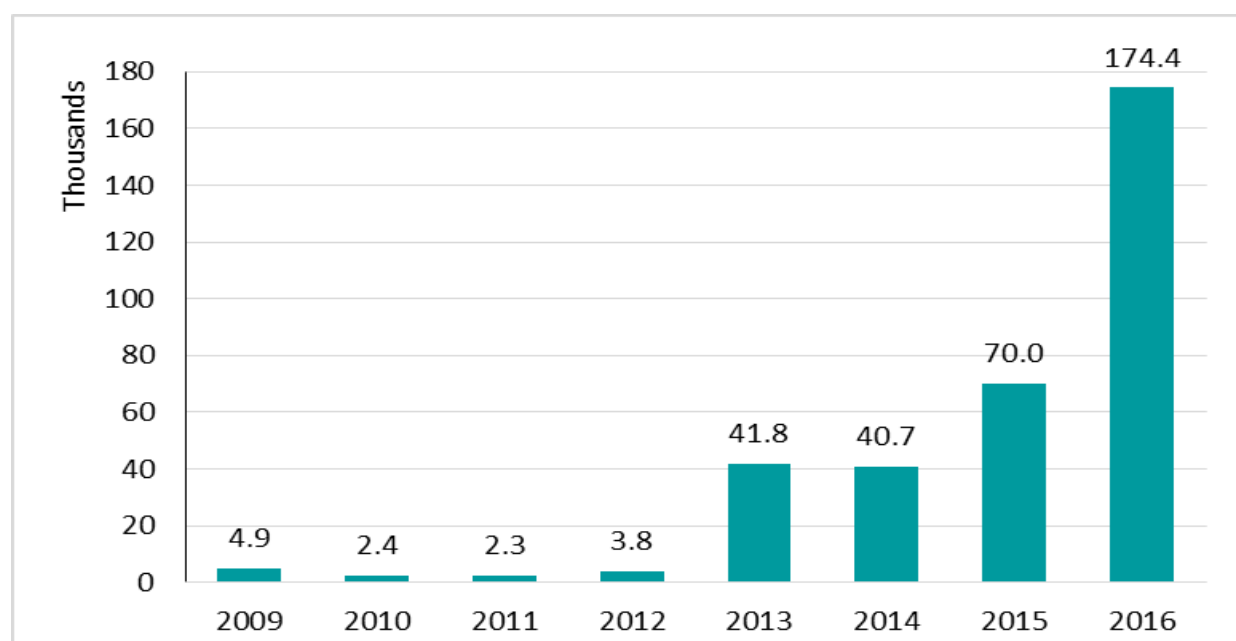
⁴⁶¹ This would help further align the National Interoperability Framework with the new European Interoperability Framework which was revised in 2017; <https://ec.europa.eu/isa2/eif>.

⁴⁶² Official Gazette No. 97/2008, 104/2009, as amended via Official Gazette No. 68/2012.

data records is not systematic, including by public authorities⁴⁶³. There is no evidence for advanced organisational or technological means to empower citizens and to offer transparency about who accessed their personal data, when and why⁴⁶⁴.

A Law on Digital Signature⁴⁶⁵ was first adopted in 2004. Use of the digital signature has accelerated since electronic filing became mandatory for value added taxes (2014), corporate income taxes (2015) and businesses' regular financial statements (see Figure 3). Around 340 000 digital certificates have been issued so far, of which 300 000 are estimated to be active⁴⁶⁶.

Figure 3. Digital signature certificates issued per year, 2009-2016.



Source: Data provided by the Ministry of Trade, Tourism and Telecommunications.

Citizen services have not yet benefited from the digital signature, although individuals can choose from several certificate providers, including one option that is free of charge (the digital signature certificate stored on the chip of the national ID card). One reason is that there are still not enough digital services that appeal to citizens. Another reason is that authentication using the ID card requires a card reader or a physical token, which is not convenient. Hence, many citizen-oriented digital services use alternative identification mechanisms, such as user-password combinations.

National legislation on the digital signature is broadly in line with EU regulation and implementing acts on electronic identification and trust services for electronic transactions (eIDAS). The Government has proposed a law that, if enacted in its current form, will further increase harmonisation by introducing electronic seals and delivery, time stamps and digital identity assurance levels.⁴⁶⁷

The administration does not currently accept electronic payments or other direct payments at the

⁴⁶³ Republic of Serbia Commissioner for Information of Public Importance and Personal Data Protection (2016), "Report on implementation of the law on free access to information of public importance and the law on personal data protection for 2015", Belgrade, pp. 66-67.

⁴⁶⁴ Estonia is an example of good international practice because citizens can use the online service portal to monitor who accessed their personal data held by the administration, and flag illegal access.

⁴⁶⁵ Official Gazette No. 135/2004.

⁴⁶⁶ Data provided by the MTT.

⁴⁶⁷ Draft Law on Electronic Documents, Electronic Identification and Confidential Services in Electronic Business.

point of service. The legal framework for digital payments is embodied in the Payment Services Law⁴⁶⁸, but at this point there is no processing of payments between the administration and citizens (i.e. no debit/credit card payments are possible directly at the point of service). Any payments due require an additional procedure (e.g. a bank transfer, a money order or a cash payment at a bank or post office). After the payment, the applicant has to return to the point of service and provide a paper-based proof of the payment, which is then stored by the administration.

Overall, the value for the indicator 'Existence of enablers for public service delivery' is 1.

Existence of enablers for public service delivery						
This indicator measures the extent to which citizen-oriented service delivery is being facilitated by the existence and implementation of enabling tools and technologies, such as public service inventories, interoperability frameworks, digital signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using those tools and technologies to improve the design and delivery of public services.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Central and shared mechanisms to better enable public service provision	
1. Central monitoring of service delivery performance	0/3
2. Interoperability infrastructure in place	2/3
3. Existence of common standards for public service delivery	0/3
4. Legal recognition and affordability of electronic signatures	2/3
Performance of central and shared mechanisms for public service delivery	
5. Use of quality management tools and techniques	0/4
6. Adoption of user engagement tools and techniques	1/4
7. Interoperability of basic registers	2/4
Total⁴⁶⁹	7/24

There is virtually no systematic monitoring of user perception or service delivery performance. This severely limits the Government's capacity to identify champions of service delivery and spread good practices. Very little effort is undertaken to engage actual users in order to identify problems, design solutions and test prototypes of improved service delivery. Digital enablers fare better: the digital signature in particular has been used to improve service delivery to businesses. However, the technical progress on interoperability is hampered by the lack of consolidation and digitisation of some key registers. The personal data protection framework is only partially suited for more frequent electronic exchanges and access to personal data by administrators.

Principle 4: The accessibility of public services is ensured.

Around 190 police stations issue personal documents and driving and vehicle licences⁴⁷⁰. The Tax Administration currently has 178 branches, but aims to reduce this number as part of the digital transformation. A latent challenge is the digitisation of municipal offices and offices where state-level services are delivered locally (e.g. the Republic Geodetic Authority⁴⁷¹).

⁴⁶⁸ Official Gazette No. 139/2014.

⁴⁶⁹ Point conversion ranges: 0-4=0, 5-8=1, 9-12, 13-16=3, 17-20=4, 21-24=5.

⁴⁷⁰ According to the MoI.

⁴⁷¹ See analysis of process efficiency for "Registering Property" in "Ease of Doing Business" in World Bank (2017), *Doing Business 2017*, International Bank for Reconstruction and Development/The World Bank, Washington, DC.

One-stop shops are foreseen in the new LGAP and have been used to simplify administrative procedures around specific “life events”. The process started with business-oriented services (business registration and construction permits) and is now expanding to citizen-oriented services (registration of newborn babies directly at the hospital). The one-stop shops were made possible through comprehensive transformation efforts, including revision of the legal framework, process re-engineering, automated data exchanges and the digital signature.

Content and presentation on Government websites is generally good, a fact that is largely confirmed by civil society and businesses⁴⁷². The MPALSG has developed a central guidebook for website harmonisation, the latest version of which dates back to 2014⁴⁷³. The time elapsed since the guidebook’s last update may explain why some Government websites – including the online service portal – are not convenient to use on mobile devices.

The online service portal⁴⁷⁴ is a central gateway for information and access to around 20 transactional services. Some services (e.g. online booking of appointments to renew ID cards or vehicle licences) are available across the entire territory, while others (e.g. registering a change of residence or enrolling children in preparatory school) are limited to certain municipalities.

Digital services already see considerable use:

- Online tax declaration by businesses is mandatory. Hence there is 100% use of the digital channel for corporate income taxes and value added taxes.
- Around one-third (33.5%) of personal income tax (PIT) declarations were submitted online in 2016⁴⁷⁵. The Tax Administration does not prefill PIT declarations, but it is important to note that PIT declarations concern only a small number of individuals (around 23 000) earning more than three times the average national income⁴⁷⁶. The remaining individuals are only taxed at the source through automatic salary deductions.
- Around 656 000 appointments for vehicle licence renewals were booked online in 2016, out of almost 2.4 million renewals in total⁴⁷⁷. This means that around 27% of transactions were at least partly conducted via the digital channel.
- Around 250 000 appointments to obtain personal ID documents (ID cards or passports) were booked online in 2016, out of almost 2 million of these documents issued in total⁴⁷⁸.

The electronic information stored on personal documents facilitates certain services. Administrators in Government offices can read data from the chip embedded in national ID or vehicle licence cards to reduce time and errors stemming from manually entering data. Use of this facility is not yet universal⁴⁷⁹.

Efforts have been undertaken to facilitate access to online information and services for people with disabilities, thereby also enhancing general accessibility. On average, Government websites have 26 accessibility errors (see Figure 4). This is an acceptable average, considering that the median value is

⁴⁷² Discussion of Commitment 9 in the draft OGP Serbia End-of-Term 2014-2016 Report, prepared by European Policy Centre (CEP), <https://www.opengovpartnership.org/country/serbia/irm>; Indicator “Availability of Information” in NALED’s Regulatory Index Serbia, <http://ri.naled.rs/>.

⁴⁷³ MPALSG (2014), “Guidelines for the online presentation of state administration bodies, bodies of territorial autonomy and local self-government, version 5.0”, Belgrade.

⁴⁷⁴ <http://euprava.gov.rs>

⁴⁷⁵ Data provided by the Tax Administration, MoF.

⁴⁷⁶ Stop to Bureaucracy Action Plan, Action 10.

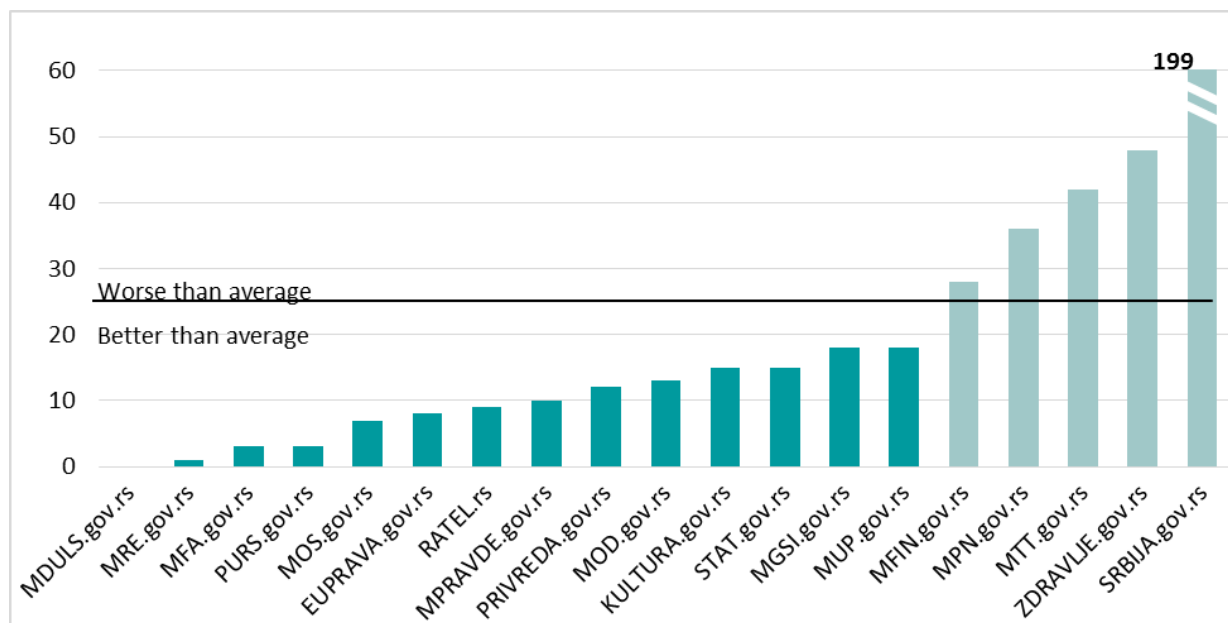
⁴⁷⁷ Data obtained during interviews with Ministry of Interior and MPALSG.

⁴⁷⁸ Ditto.

⁴⁷⁹ Measure 11.2 in NALED (2017), “NALED Grey Book 9”, <http://naled.rs/>; and Transparency International Serbia: www.transparentnost.org.rs/images/dokumenti_uz_vesti/Inicijativa_registracioni_list_saobracajna.pdf.

much lower (13 errors). The main Government website⁴⁸⁰ is a stark outlier with almost 200 errors, whereas the online service portal has fewer than ten errors.

Figure 4. Number of content accessibility problems on Serbian Government websites, 2017



Source: SIGMA test of compliance with Web Content Accessibility Guidelines (WCAG), February 2017.

The legal framework governing access for people with disabilities is relatively well developed. Serbia ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2009. Implementation progress was recognised in 2016 by the United Nations Committee on the Rights of Persons with Disabilities, although challenges remain, such as ensuring universal access to physical premises and better access to some types of digital information, and addressing the vulnerability of women with disabilities⁴⁸¹.

Part of the problem is limited data availability. The last statistics on disability prevalence were collected in 2011 and are now outdated. Advanced statistics are largely missing. Complaints about access to public services or public facilities for people with disabilities can be lodged with the Commissioner for Protection of Equality (27 such complaints were received in 2016)⁴⁸². The low number indicates that this mechanism does not make up for the lack of official data and proactive monitoring by the administration.

Overall, the value for the indicator 'Accessibility of public services' is 1.

⁴⁸⁰ www.srbija.gov.rs.

⁴⁸¹ <http://enil.eu/news/crpd-committee-reviews-serbias-record/>.

⁴⁸² <http://ravnopravnost.gov.rs/en/strengthening-political-involvement-of-persons-with-disabilities-in-serbia/>.

Accessibility of public services

This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizen perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.

Overall indicator value 0 **1** 2 3 4 5

Sub-indicators	Points
Policy framework for accessibility	
1. Existence of policy for the accessibility of public services	2/3
2. Availability of statistical data on accessibility to public services	0.5/3
3. Adequacy of policy framework for public service users with special needs	2/4
4. Existence of common guidelines for government websites	1/2
Government performance on accessibility	
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)	1/3
6. Perceived satisfaction with public services across the territory by population (%)	0/3
7. Perceived accessibility of digital public services by population (%)	0/3
8. Perceived time and cost of accessing public services by population (%)	0.5/3
Total ⁴⁸³	7/24

The Government has made some progress in improving accessibility to services. The one-stop shops created in recent years have transformed and focused service delivery on specific “life events”. Digitisation contributes to better access through enhanced user interfaces and more efficient back-office workflows. However, fully digital services are still rare since some key registers are not yet digitised and important data exchanges are not automated. Progress has been made on the overall policy framework to integrate people with disabilities into mainstream service delivery. However, the Government collects and produces very little data that would allow it to systematically monitor and reduce access barriers.

Key recommendations

Short term (1-2 years)

- 1) The Government should further harmonise existing legislation with the LGAP, including the substantial secondary legislation, by working more closely with non-governmental actors to catalogue all the laws and regulations that define administrative procedures and need to be reviewed.
- 2) The Government should commit to a common roadmap for interoperability, based on the Stop to Bureaucracy Action Plan and the existing Interoperability Framework; the roadmap should define commonly agreed services, timelines and objectives for deploying the data exchange infrastructure.
- 3) The MPALSG and the Prime Minister’s Delivery Unit should collaborate to better monitor performance in service delivery, using defined central standards and benchmarks for “good” service delivery.

⁴⁸³ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

- 4) The MTTT and the MPALSG should make the digital signature more appealing and convenient for individual citizens, by providing more fully digital services that support the digital signature, and by removing the need for card readers or physical tokens to authenticate low-value transactions; this can be done through mobile phone-based options⁴⁸⁴.
- 5) The MPALSG should use national address harmonisation to advance the open-data agenda and further improve collaboration with civil society and to positively impact on Government service delivery.

Medium term (3-5 years)

- 6) The Government should establish a service-transformation unit, which is not a bureaucratic hub that develops documents and monitors compliance, but rather a task force that executes actual re-engineering projects in collaboration with service delivery institutions to drive genuine change (or expand the existing Delivery Unit). Such a unit should
- 7) The Government should improve the returns on digital investments by introducing central business case reviews and developing a risk-assessments methodology, as well as establishing a Chief Information Officer (CIO) function to better co-ordinate, monitor and review digital projects, which like other major infrastructure projects, can lock the administration into a given system for years, sometimes decades.

⁴⁸⁴ In line with European Commission implementing Regulation (EU 2015/1502), http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2015_235_R_0002. Belgium (www.csam.be/en) and Italy (www.spid.gov.it) provide good international examples in this area.

6

Public Financial Management

PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: MAY 2015 – JUNE 2017

1.1. State of play

The fiscal position of the Republic of Serbia has clearly improved. The General Government Deficit in 2016 was 1.3 % of the Gross Domestic Product (GDP)⁴⁸⁵, and the public debt was 73.0 % of GDP⁴⁸⁶. This is mainly due to significant efforts since 2015 to both lower expenditures (wages and pension cuts) and strengthen tax and financial discipline (reduced shadow economy), and to create a favourable macroeconomic environment.

The Government's main priority remains the stabilisation of public finances, on which progress has been noticeable. The medium-term fiscal policy objective is to reduce the deficit to 1% of GDP in 2019⁴⁸⁷. This would reduce the public debt to 67% of GDP, restoring public finance sustainability. Although the public debt ratio is still in excess of the 45% of GDP legal limit, it is notable that it fell significantly in the first six months of 2017, to 66.6% of GDP. Yet the successful consolidation of the fiscal position and the further reduction of public debt will depend on the implementation of several public sector structural reforms (e.g. modernisation of the tax administration, rationalisation of the salary system, improvement of the capital investment system and management reform of underperforming state-owned enterprises [SOEs]), some of which may prove challenging.

The Budget is presented on a programme-budget basis but still lacks emphasis on results or performance. Moreover, although the budget calendar is set in legislation, it is not fully respected at the present time⁴⁸⁸.

The operational framework for financial management and control (FMC) and internal audit (IA) is only partially complete. Neither the FMC nor the IA system is implemented fully in line with the legal framework, and information on actual implementation is not always available.

The public procurement legislation is largely harmonised with the European Union (EU) *acquis* and reflects the fundamental policy goals of public procurement⁴⁸⁹. However, there are a number of major inconsistencies with the *acquis*, and the 2014 EU Directives⁴⁹⁰ have inherently increased this number, particularly with regard to technical details.

The institutional set-up provides the basic elements required for a functional system (including the remedies system). However, the functions related to public private partnerships (PPPs) are not clearly allocated, and the Commission for Public-Private Partnership (PPP Commission) has insufficient staff and resources to fulfil its role.

⁴⁸⁵ Current Macroeconomic Developments, June 2017, MoF, Department of Macroeconomic and Fiscal Analysis and Projections, p. 50, <http://www.mfin.gov.rs/UserFiles/File/tabele/2017%20jul/Current%20Macroeconomic%20Developments.pdf>.

⁴⁸⁶ *Idem*, p. 63.

⁴⁸⁷ The Government of the Republic of Serbia, "Fiscal Strategy Paper for 2017", with projections for 2018 and 2019.

⁴⁸⁸ The MoF states that this is due to the deadline of the IMF Stand-by Arrangement, where fiscal aggregates are agreed with the IMF in late September, as opposed to the late June deadline prescribed in legislation.

⁴⁸⁹ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 92. http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

⁴⁹⁰ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJEU L 94, 28/03/2014, p. 1); Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJEU L 94, 28/03/2014, p. 65); Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJEU, L 94, 28/03/2014, p. 243).

The Public Procurement Development Strategy 2014-2018⁴⁹¹ (Strategy) serves as a strategic framework for longer-term development of the procurement system but some of the operational measures foreseen in the annual Action Plans have not been implemented⁴⁹². The electronic publication of all types of notices and tender documents is mandatory, as are procurement plans and modifications of the initial value of contracts; however, an electronic procurement system has still not been introduced. Most contracts are awarded in an open procedure and the share of negotiated procedures without prior publication is low⁴⁹³, but the average number of bids submitted in public tenders is low⁴⁹⁴. In addition, *ex post* evaluation of the procurement process and of contract performance is not carried out systematically. Framework agreements are being used more and more often.

The independence, mandate and organisation of the SAI are established and, although the SAI is subject to external pressures, the protections provided by the constitutional and legal frameworks are robust. The SAI continues to make significant efforts to apply standards in a neutral and objective manner and to ensure high-quality audits that have a positive impact on the functioning of the public sector. The number of recommendations made in audit reports is increasing, and the SAI is taking steps to improve the number implemented by auditees. Individual audit reports are not yet discussed in Parliament in the format of public hearings. Moreover, procedures do not exist for the discharge⁴⁹⁵ of the Government in respect of its financial results for the year.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement⁴⁹⁶ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement Reports.

The Government's main achievement in PFM has been to bring the public finances onto a sustainable path, with significant improvements in the budget deficit and in the public debt ratio. Also, in November 2015, the Government adopted the Public Financial Management Reform Program (PFMRP) which contains a range of ambitious public finance reform measures for the public service. Although actual implementation of these measures has been weak in the initial years, the PFMRP nevertheless represents a key development since it provides a basis for initiating essential reforms in a structured manner, especially now that the public finances have improved.

In December 2016, the Accession Conference with Serbia opened for negotiation of *Chapter 5 – Public procurement* although benchmarks still need to be met for the provisional closure of this chapter⁴⁹⁷. In August 2015, amendments to the Law on Public Procurement (PPL)⁴⁹⁸ introduced less burdensome formalities, reduced deadlines for the submission of bids and increased transparency⁴⁹⁹.

⁴⁹¹ Public Procurement Development Strategy in the Republic of Serbia 2014-2018 and Action Plan for Implementation of the Public Procurement Development Strategy for 2014-2015, Government Decision 05 No. 404-9896/2014-5, adopted on 30 October 2014. The most recent action plan is the Action Plan for Implementation of the Public Procurement Development Strategy for 2017, Government Decision 05 No. 404-12569/2016.

⁴⁹² A few actions that had been planned for 2016 have not been implemented, such as the scheduled number of training activities.

⁴⁹³ Statistics provided by PPO.

⁴⁹⁴ The average number of tenders submitted for each competitive procedure is only 2.9, and only one tender was submitted in more than 42% of the procedures.

⁴⁹⁵ Whereby the Parliament, based on the SAI's report on the Government's execution of the annual Budget, approves the financial results for that year.

⁴⁹⁶ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

⁴⁹⁷ <http://www.consilium.europa.eu/en/press/press-releases/2016/12/13-accession-conference-serbia/>.

⁴⁹⁸ Official Gazette No. 124/2012, with later amendments.

⁴⁹⁹ Contracting authorities are obliged to publish more information on the PP Portal, such as notices on the amendment of contracts and procurement plans.

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 the ratio of debt to gross domestic product are on a sustainable path.

The section on risk analysis of the Fiscal Strategy (FS) 2017-2019 document has improved by including more detailed information and analysis on potential effects of State guarantees in favour of SOEs on the public debt and deficit. Furthermore, the Ministry of Finance (MoF) is undertaking improvements: a) it is preparing new proposals for the Government to establish better fiscal rules with corrective actions in case rules are breached (as recommended in the 2015 SIGMA Baseline Measurement Report⁵⁰⁰); the new rules will be aligned with European Union (EU) rules, including budget surveillance and penalties; and b) a working group is preparing better alignment with the European System of Accounts (ESA) standards. The MoF has not advanced, however, on the presentation in the Fiscal Strategy of: 1) the linkages of strategic and operational plans of budget beneficiaries to the Government's priorities; 2) performance information; and 3) a list of investment projects (the three points recommended in the 2015 SIGMA Baseline Measurement Report).

The path of development with programme budgeting is slow but steady. The latest amendments to the Budget System Law (BSL) include several articles on the monitoring and reporting of programme budgeting, requiring direct budget beneficiaries to include performance information in their reports on budget implementation⁵⁰¹. A key step towards improving programme budgeting is the newly created module for reporting on budget execution, including performance information. However, the implementation of this reform and other related innovations (e.g. financial impact assessment of new policies) will require serious efforts from an already overloaded team of budget analysts at the MoF Budget Department.

The capital budget execution level in 2016 was relatively high (80.29 % of the budget appropriation). This is partially the outcome of both further political interest in this issue and the capacity development initiatives taken within the framework of the National Investment Council (NIC). Established in 2013, the NIC is a forum co-chaired by the Minister of Finance and the Minister of European Integration comprised of ministers representing the relevant sectors. The Secretary of the NIC has built capacity for the management and assessment of the selection procedure for strategic investment projects. The NIC Secretariat is managing the investment project pipeline and assessing projects and has prepared the guidelines for project appraisal. In June 2017, the Government approved a decree⁵⁰² to put these guidelines into effect and to establish the role of the NIC. However, strategic projects that are co-financed by the EU are not covered by the decree, and it is not clear as to how the results of the NIC's decisions will be integrated into the budget. Considering that the credibility of the medium-term budgetary framework (MTBF) projections has improved and the section on risk analysis of the FS 2017-2019 document has advanced by including information on risks of State guarantees in favour of SOEs, the value given to the MTBF strength index is 4, which is a significant increase compared to 2015. Since no substantial changes have taken place in the other indicators, their values remain the same as in 2015.

⁵⁰⁰ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁵⁰¹ BSL, Articles 5, 6, 8, 9 and 21.

⁵⁰² The Decree on the Content, Method of Preparation and Evaluation, as well as Monitoring of Implementation and Reporting on Realisation of Capital Projects, Official Gazette, No. 63/2017.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	MTBF strength index.	2	4
	Fiscal rules strength index.	1	1
	Extent to which the annual budget proposal includes full information at the time of presentation to the parliament.	1	1
Quantitative	Percentage differences between the planned budget revenue in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	-11.5%	4.96%
	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.	-5.0%	2.08%
	General government budget balance.	-7.9% ⁵⁰³	-1.3% ⁵⁰⁴
	Percentage differences between the planned budget revenue (as approved in the budget) compared to the outturn of the latest available year.	-6.3%	9.1%
	Percentage differences between the planned budget expenditure (as approved in the budget) compared to the outturn of the latest available year.	-10.7%	-3.67%

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.

No significant advances have been made on budget execution, public debt management or budget reporting since June 2015. However, the MoF is doing preparatory work to advance in these fields.

By law, direct budget beneficiaries are now obliged to provide budget programme and performance execution information to the MoF. Thus, budget reporting is to be prepared on a programme basis. Since 2016, the MoF has made significant efforts on programme budget training and information technology (IT) adaptation.

In-year financial reporting provides wider information. The coverage of the Financial Management Information System (FMIS) has been enlarged and is still growing. Budget reports in 2016 included 247

⁵⁰³ National Economic Reform Programme (NERP) 2015-2017, p. 34, www.mfin.gov.rs/UserFiles/File/dokumenti/2015/NERP%202015%20ENG%20za%20WEB%2018_3_2015.pdf.

⁵⁰⁴ Current Macroeconomic Developments, June 2017, MoF, Department of Macroeconomic and Fiscal Analysis and Projections, p. 50, <http://www.mfin.gov.rs/UserFiles/File/tabele/2017%20jul/Current%20Macroeconomic%20Developments.pdf>.

additional indirect budget beneficiaries (judiciary and prosecutors' offices) compared to 2015. The MoF is working on the incorporation of cultural organisations and prisons for the end of 2017. In-year financial reporting is also more readily available. The MoF publishes monthly budget execution reports within four weeks⁵⁰⁵, as compared to the eight weeks in 2015.

In addition, the MoF has reviewed and updated its inventory of budgetary and extra-budgetary public entities and SOEs.

The Public Debt Administration (PDA) is working on: 1) the development of an information system for public debt management, including a model for public debt risk management, scenario analyses, stress tests and other relevant analyses; 2) the development of a new system to better monitor the implementation of projects financed from loans; and 3) a training programme for civil servants to improve the capacity of public debt staff. In addition, the PDA has started to develop a methodology for carrying out a long-term public debt sustainability analysis⁵⁰⁶.

Given the improvements mentioned in the FMIS coverage, the value of the indicator on in-year financial reporting increases to 2. Since no substantial changes have taken place in the other indicator, its value is maintained at 2.

Table 2. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which in-year financial reporting provides full information and is made publicly available.	1	2
	Extent to which the annual financial report includes full information and is made available in time to the parliament.	2	2
	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	Not available ⁵⁰⁷	Not available ⁵⁰⁸
	Public-sector debt servicing costs as a share of gross domestic product.	2.9%	3.1 % ⁵⁰⁹
	Difference of public-sector debt level outturn from target.	7%	-5.7% ⁵¹⁰

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

The Central Harmonisation Unit (CHU) drafted a new public internal financial control (PIFC) Strategy in 2016, which was adopted by the Government on 13 May 2017. The CHU also upgraded and redesigned FMC training materials and presentations, making them more user-friendly. They were delivered to all

⁵⁰⁵ Information provided by the MoF.

⁵⁰⁶ Report on the implementation of the PFMRP 2016-2020 for December 2015-June 2016.

⁵⁰⁷ No data provided.

⁵⁰⁸ No data provided.

⁵⁰⁹ NERP 2015-2016, Table 7, p. 44.

⁵¹⁰ *Idem*, Table 9, p. 53.

ministers and heads of local self-governments. It also reviewed the content of its yearly consolidated PIFC report, which is now better structured and more readable.

Improvements have been made in planning capital projects, with the NIC⁵¹¹ developing a single pipeline for infrastructure projects related to the environment, transport, energy and business. This was revised in 2016 to incorporate priority projects with scheduled implementation beginning in 2017.

The Serbian Administration has also been taking first steps towards improving the irregularity management system and streamlining the Budget Inspection work within the MoF for national budget funds and within the Anti-Fraud Co-ordination Services (AFCOS) for combating irregularities and fraud in management of EU funds. The BSL⁵¹² was amended⁵¹³ in December 2016 in order to set the basis for a PIFC-compliant budget inspection. There is no overlap between the responsibilities of the Budget Inspection/AFCOS and the IA.

Preparatory activities for PIFC improvement were carried out in 2016, both with regard to establishing the policy framework and improving human resource capacities, and these improvements are expected to take effect before the end of 2017. Although most of the SIGMA recommendations from the 2015 assessment have not been fully implemented to date, there have been a number of improvements in the operational framework for FMC. This includes the publication of the PIFC Strategy 2017-2020 (referred to as the PIFC Strategy) and the PFMRP 2016-2020, which links planned developments in FMC to general budget preparation reforms and demonstrates that these planned developments are not limited to the MoF. That has resulted in the qualitative indicator result under Principle 6 rising to a value of 3 in 2017, having been a value of 2 in 2015.

Table 3. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the operational framework for FMC is complete, in place and applied.	2	3
Quantitative	Share of first-level budget organisations where the budget structure is aligned with the organisational structure.	Not available ⁵¹⁴	Not available ⁵¹⁵

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

There is modest progress in implementing IA:

- 1) A new PIFC Strategy was adopted on 13 May 2017, with a fully functional IA as one objective.
- 2) The number of IA units and conducted audits has increased.
- 3) The number of certified auditors rose from 189 in 2013 to 330 in 2016.

⁵¹¹ See information provided on p. 2

⁵¹² As last amended by the Law on Amendments to the Law on Budget System, Official Gazette, No. 99/2016.

⁵¹³ BSL Articles 84-91 govern budget inspection activities.

⁵¹⁴ No data provided.

⁵¹⁵ Data was provided but it was not possible to calculate the share of first-level budget organisations where the budget structure is aligned with the organisational structure.

- 4) The CHU has launched a website and started to publish the relevant reports.
- 5) The CHU has performed quality reviews of IA work in ten ministries after 3-4 years.
- 6) The software for reporting on internal control is being upgraded.

Although these activities were not planned in the strategy papers and none of the planned reform actions has yet been implemented, numerous relevant actions are planned for 2017 and beyond. None of the SIGMA recommendations from the 2015 assessment and the 2016 monitoring report have been fully implemented to date, although various activities are planned according to the PIFC Strategy. The PIFC Strategy 2017-2020 acknowledges the need for continuous professional development. However, the Strategy was only adopted on 13 May 2017, so continuous professional development is not yet in place. The review of five sample organisations shows that audit charters are not always concluded with the head of an organisation, and there are no regular meetings between heads of IA units under the guidance of the CHU, since this is not a CHU responsibility. Although IA units are established in the largest budget organisations, these units are not at least 90% staffed in accordance with legal provisions. There has been, however, an improvement in the percentage of internal auditors with appropriate qualifications. This has resulted in no change in the value of the qualitative indicator on the extent to which the operational framework for internal audit is designed and in place, which remains at 3. It should be noted that this represents an improvement in the value of 2 for this indicator in the 2016 Monitoring Report⁵¹⁶. As in 2015, the indicator on the quality of IA reports could not be assessed because none of the five institutions which were asked to provide this information submitted an IA report to SIGMA⁵¹⁷.

While the total number of internal auditors has risen, the number of staff in the individual IA units has declined, resulting in only 23% of IA units complying with the minimum staffing level of three people. However, it must be noted that the lower percentage is also due to a more robust interpretation by the CHU in its most recent PIFC Annual Report as to what constitutes minimum staffing of IA units.⁵¹⁸ The CHU has successfully continued to implement the certification programme, resulting in 88% of public sector internal auditors with national audit certificates.

⁵¹⁶ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>.

⁵¹⁷ Several requests were made, by both the CHU and SIGMA.

⁵¹⁸ "Of the public funds beneficiaries, those that introduced IA with a single internal auditor account for 63%, with two internal auditors for 14% and with three and more internal auditors for 23%. A large percentage of introduced audits with two or fewer auditors raises doubt whether internal audit standards can be fully observed", Consolidated Report on the Status of Public Internal Financial Control in the Republic of Serbia in 2015, December 2016, MoF, Central Harmonisation Unit, p. 18.

Table 4. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the operational framework for internal audit is designed and in place.	3	3
	Quality of internal audit reports.	Not available ⁵¹⁹	Not available ⁵²⁰
Quantitative	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	36%	23%
	Share of internal auditors with a national or international internal audit certificate.	72%	88%

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.

The PPL was amended twice in 2015⁵²¹, and some of the new provisions represent improvements in the legal framework. The definition of a contracting authority is now more accurate, and central and sub-central public authorities as well as bodies governed by public law are better defined. However, associations formed by one or more such authorities are not included in the definition. The modifications introduced other positive changes, such as: new rules on mixed procurement; more detailed provisions for the award of contracts based on a framework agreement; more precise rules for requiring a specific label as means of proof; extension of the rules allowing economic operators to use a self-declaration confirming that they meet the relevant selection criteria in the case of high-value contracts; and abolition of the negative reference system (blacklist). More transparency in the procurement process has been ensured as a result of new rules that oblige the contracting authorities to publish their annual procurement plans and any modifications thereto on the Public Procurement Portal (PP Portal). A few tasks of the PPO that had no real impact on the public procurement system, such as issuing consent to initiate the competitive dialogue procedure or to conduct joint procurement, have been removed from the PPL. The Law on Public-Private Partnerships and Concessions (PPP Law)⁵²² was also amended twice in 2016⁵²³. The changes focus mainly on technical aspects that should not have a noticeable impact from the perspective of the EU rules.

With regard to the recent modifications of the PPL, the number of days available for stakeholders to provide comments was ten days, which some of them perceived as insufficient for the preparation of

⁵¹⁹ No data provided.

⁵²⁰ Ditto.

⁵²¹ Official Gazette Nos. 14/2015 and 68/2015.

⁵²² Official Gazette No. 88/2011, with amendments.

⁵²³ Official Gazette Nos. 15/2016 and 104/2016.

their comments and proposals⁵²⁴. The Government adopted the last amendments to the PPP Law through an urgent procedure, without any solid reasons to justify such a procedure or holding public consultations. As a result, the value of the indicator on the nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness decreased to 3, compared to 4 in 2015.

In accordance with the provisions of the Strategy, the PPO has prepared and implemented annual Action Plans. A few activities that had been scheduled for 2016 have still not been carried out. The PPO submitted reports on the implementation of the Strategy to the Government, but these reports were not made public.

No progress has been made with regard to the distribution of functions and responsibilities between the central institutions involved in the area of concessions and PPPs.

Table 5. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which public procurement legislation is complete and enforced.	3	4
	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	4	3
	Extent to which policy framework for public procurement is developed and implemented.	4	4
	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	3	3
	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	3	3
	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	4	4

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

The high number of complaints in the last few years has shown its impact on the daily work of the RCPRPP and resulted in considerable delays in the decision-making process. Some measures have already been adopted in order to resolve this issue. The 2015 amendments to the PPL⁵²⁵ increased

⁵²⁴ This information was collected during interviews with business sector representatives (Serbian Association of Small and Medium Enterprises, Foreign Investors' Council, Serbian Chamber of Commerce) and NGOs (e.g. Transparency Serbia).

⁵²⁵ PPL, Article 140.

the number of members of the RCPRPP from six to eight. However, the new positions remained vacant for a long period, and the two additional members were appointed by the Parliament only on 28 December 2016. The PPL amendments increased the level of fees⁵²⁶ (in some cases by 50% or even more), which appears to be one of the reasons for the reduction in the number of complaints submitted in 2016. The RCPRPP recently prepared an internal action plan aimed at improving its activity, both with regard to internal procedures and in relation to third parties (contracting authorities and economic operators).

The procedure before the Administrative Court (second instance) remains very long (lasting in some cases more than a year). This negatively affects the system: in the first quarter of 2016, 310 cases were pending. No progress has been made regarding the access of contracting authorities to judicial review of the RCPRPP decisions⁵²⁷.

The RCPRPP website has been developed in recent years and allows searches for individual decisions, using both free-text search and search by various criteria⁵²⁸. However, the Administrative Court's judgements are still unavailable.

According to the PPL⁵²⁹, the RCPRPP's task is to initiate and conduct first-instance misdemeanour procedures. A major inconsistency exists between the PPL and the 2014 Misdemeanour Law, which renders it impossible for the RCPRPP to carry out the misdemeanour procedure in practice. As a result, no decision has been taken on a misdemeanour in public procurement in the past two years.

Table 6. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	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.	3	3
	Presence of a user-friendly procurement review website including timely publication of decisions and statistics, with adequate search functions.	4	4
Quantitative	Actual processing time of complaints related to procurement compared with maximum legal requirements.	Not available ⁵³⁰	3.2
	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	26.56%	75.69%

⁵²⁶ PPL, Article 156.

⁵²⁷ OECD (2015), *Baseline Measurement Report Serbia*, OECD Publishing, Paris, pp. 107-108, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

⁵²⁸ <http://www.kjn.gov.rs/en/odluke/protection-of-rights.html>.

⁵²⁹ PPL, Article 147.

⁵³⁰ The average processing time for a complaint is 26 days. However, as there are different deadlines for the various complaint procedures in the law (20, 30 or 45 days), statistics on the actual processing time per procedure are not available. The baseline value of the indicator therefore cannot be calculated.

	Number of complaints in relation to the number of tender notices published.	5.1% ⁵³¹	2.23% ⁵³²
	Share of complaints in procurement that are challenged to the next judicial level.	10%	11%

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.

The 2015 amendments to the PPL imposed the obligation for contracting authorities to publish their annual procurement plans on the PP Portal, which has increased the level of transparency in the pre-award phase and given economic operators the opportunity to benefit from the advantages of public accessibility to such information. The PPL has imposed new obligations concerning the publication of modifications to contracts during their execution.

The share of negotiated procedures without prior publication of a notice remained low. The average number of tenders submitted per competitive procedure was a little higher in 2016 (2.9) in comparison with 2014 (2.7), but this average is still low compared with the EU average⁵³³. Framework agreements are perceived as useful tools by more and more contracting authorities, and this is reflected in practice, as the total value of procurement awarded in framework agreements was RSD 42.7 billion in 2016 (RSD 26.6 billion in 2014), which was about 13% of the total value of the contracts in 2016. The role of centralised purchasing has increased and currently represents more than 15% of the total value of all contracts (12% in 2014). No progress has been achieved, however, in using e-tools, such as e-submission, e-auctions, dynamic purchasing systems and e-evaluation although, according to the Strategy, full alignment in the field of e-procurement is envisaged by the end of 2017.

According to the SAI's estimations, the number of irregularities decreased slightly during the assessment period in comparison with previous years. The main problems are at the local level, where the conclusion of contracts without a procurement procedure or restrictive requirements in tender documents have been encountered in a significant number of cases⁵³⁴.

The ethical legal framework is largely in place, with a number of legislative measures to prevent corruption and encourage integrity in public administration. In practice, however, progress in this area has been slow.

After the 2015 amendments to the PPL, the guidelines and standard form templates that support the planning and conduct of the procurement procedure were updated. The templates and guidelines focus mainly on the formal aspect of procedures, with insufficient attention to promoting performance-oriented practice. No materials are available on modern approaches to procurement, such as life-cycle costing. The PPO continued to offer advice and operational support to contracting authorities and economic operators, and the collection of solutions to the most common practical problems has been updated since the last amendments to the PPL. Each year, the PPO organises several training sessions on public procurement⁵³⁵, with the private sector offering more opportunities on the market.

⁵³¹ Number of complaints: 3 052 (2 300 appeals, and the remainder representing other types of complaints); number of tender notices published: 59 665.

⁵³² Number of complaints: 1 388; number of tender notices published: 62 235.

⁵³³ European Commission, Internal Market and Services (2011), *EU Public Procurement Legislation: Delivering Results – Summary of Evaluation Report*, European Commission, Brussels. Most EU-advertised tenders receive between 4 and 6 bids, with an average of 5.4 bids.

⁵³⁴ SAI (2015), *Report on Activities*. Restrictive requirements in tender documents represent 20% of the total number of identified irregularities.

⁵³⁵ In 2016, the PPO organised 22 training sessions.

Table 7. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent of use of modern procurement techniques and methods.	4	4
	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	4	4
Quantitative	Share of contracts already announced in published procurement plans or indicative notices.	4.5%	90% ⁵³⁶
	Share of contracts awarded by competitive procedures.	95%	96.8%
	Share of contracts awarded based on acquisition price only.	74%	87.4%
	Share of contracts amended after award.	2%	3%
	Average number of tenders submitted per goods contract to be procured.	2.7	Not available ⁵³⁷
	Average number of tenders submitted per works contract to be procured.	2.7	Not available ⁵³⁸
	Average number of tenders submitted per services contract to be procured.	2.3	Not available ⁵³⁹

Key requirement: The constitutional and legal frameworks guarantee 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.

The Twinning Project of the Netherlands Court of Audit and the National Audit Office of the United Kingdom to assist the SAI in its further development completed its activities in March 2015, and a functional review of the SAI by a team of international experts was completed in December 2016. These showed that the SAI is making efforts to continue its development and to ensure that a sustainable framework is established for the continuous improvement of the institution.

With regard to the SIGMA recommendations made in 2015, the SAI still needs to minimise the impact of offence procedures on the time available for audit staff to undertake financial and performance

⁵³⁶ The change in the value is a result of the modification of the legislative background (publication of the procurement plans became mandatory with the 2015 modification of the PPL).

⁵³⁷ Separate data is not readily available for goods, works and services although 2.9 is the “average number of tenders submitted per contract to be procured”, defined as the average number of tenders submitted for each public contract for which a contract notice was issued.

⁵³⁸ Ditto.

⁵³⁹ Ditto.

audits. It has, however, made progress in improving the rate of implementation of its recommendations by auditees. In particular, it has improved the process of reporting its findings and recommendations, by prioritising the actions needed to address the issues identified.

The SAI has made further progress in its relations with the Parliament by agreeing, in 2015, upon a memorandum of understanding (MoU) with the responsible Committee that established more effective arrangements for communications. The SAI has not yet proposed changes to the SAI Law to provide for longer terms of appointment for SAI Council Members. It has also not raised the possibility of increasing the number of Members of the Parliament required to initiate the dismissal of SAI Council Members, as recommended by SIGMA in 2015.

As a result of the above, the values for the 2015 Baseline Measurement qualitative indicators did not change.

Table 8. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁵⁴⁰

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	5	5
	Extent to which the SAI management ensures the development of the institution.	3	3
Quantitative	Share of SAI budget in the state budget.	0.05%	0.05%
	Proportion of audit reports published on the SAI website compared with audit reports adopted.	100%	100%
	Share of audit recommendations accepted and implemented by auditees.	63%	75%

⁵⁴⁰ OECD (2015), *Baseline Measurement Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Serbia.pdf>.

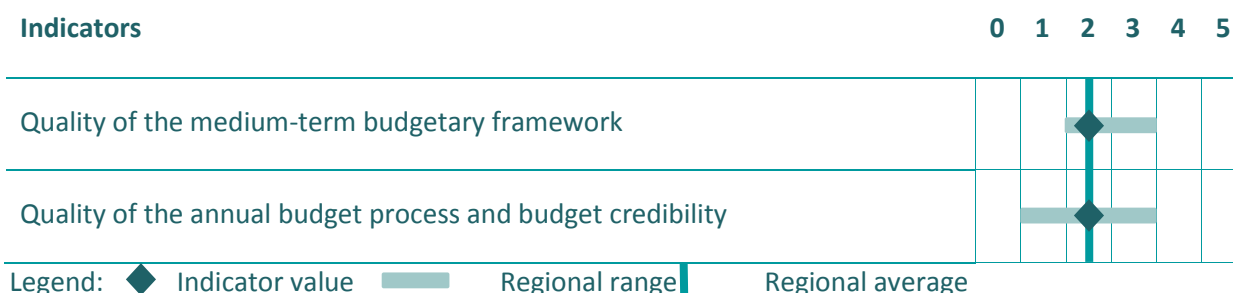
2. ANALYSIS

This analysis covers 16 Principles for the public financial management area grouped under 8 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators⁵⁴¹, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

Budget management

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 the ratio of debt to gross domestic product are on a sustainable path.

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 period of three years; all budget organisations operate within it.

The FS, including the MTBF, is planned under the co-ordination of the MoF, with the collaboration of line ministries and subordinated bodies. The Strategy is prepared in a top-down manner through the extrapolation of revenues and expenditures, according to estimates of the main macroeconomic and fiscal variables. The FS is not based on budget beneficiaries' strategic and operational plans⁵⁴². A draft Strategy is prepared in the spring, and it is reviewed to account for both Fiscal Council comments and changes in the economic context before the final version is released in October.

The Government presents the FS to the Parliament and to the Fiscal Council, as required by the BSL⁵⁴³. The Parliament issues an opinion but does not approve the Strategy. The Council is accountable to the Parliament⁵⁴⁴ and regularly issues opinions on the Government's fiscal policies.

⁵⁴¹ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁵⁴² This recommendation, presented in SIGMA Baseline Measurement Report of 2015, has not been addressed.

⁵⁴³ BSL, Official Gazette of RS, Nos. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13-corrected, 108/13 and 142/14, Articles 27c to 27f.

The FS for 2017-2019 contains macroeconomic and fiscal forecasts and presents revenue, expenditure, deficit and debt projections of the general government for the three-year period and the fiscal space projections for 2018 and 2019⁵⁴⁵. Total expenditures are broken down by main economic categories (personnel costs, purchases of goods and services, interest, subsidies, transfers, and capital expenditures). Spending projections are indicative targets and are presented by sector, not by budget beneficiaries. Projections are not derived from budget programmes, but instead are calculated at the macro-level. The MoF is preparing a legislative package on the planning system and management of public policies that may improve the credibility of spending projections⁵⁴⁶. This improvement will also require wider efforts at linking the budget and planning.

In fact, the credibility of revenue and expenditure planning has improved compared with 2015. Revenue projections are more conservative and expenditures more realistically planned. There have been certain deviations between budget predictions and results on public revenues and expenditures presented, but these differences were positive or beneficial. The fiscal policy targets presented in the FS 2014-2016 were surpassed by the results in 2016. Revenue collection was 4.96% above the programmed targets for 2016; this was partially due to the positive evolution of the economy, better tax collection and the reduction of the shadow economy⁵⁴⁷. Public expenditures were 2.08% below projections from 2014⁵⁴⁸. Furthermore, according to the Fiscal Council, there are no major risks of revenues being lower than expected and no great savings in spending are necessary compared to previous years⁵⁴⁹. There are still weaknesses in the budget system, however, that jeopardise the credibility of projections. For instance, some local governments inflate revenue projections⁵⁵⁰. The MoF has issued specific instructions for revenue projections and may withhold transfers to local governments that fail to comply with the new instructions⁵⁵¹.

The information presented in the FS on capital expenditure is very limited. The FS 2017-2019 document provides only the total figure for capital expenditures projected for 2017 and the following two years, along with some general comments. Budget transfers of agencies with their own revenues are included in the MTBF, but their total revenues and expenditures are not considered in MTBF projections. Regulatory bodies are not part of general government projections. A working group is preparing a better alignment with ESA standards. The FS for 2017-2019 presents the main fiscal risks (e.g. relevant quantitative information on potential effects on State guarantees in favour of SOEs, and their effect on the public debt and deficit). However, there is little risk sensitivity analysis apart from the impact that a decrease in the economic activity would have on the budget balance. The Strategy estimates that a 1% change in GDP leads to a 0.36% change in the budget balance.

The main fiscal rules require the budget deficit to be limited to 1% of GDP and the public debt not to exceed 45% of GDP. If the public debt exceeds the limit, the Government has to take corrective fiscal policy measures to reduce it. In July 2015, new special rules were approved to complement the existing debt and deficit limits (e.g. a special fiscal rule limiting the number of public employees). The Law on the Method for Determining the Maximum Number of Public Sector Employees (July 2015) constitutes the basis for determining the maximum annual number of employees for 2015-2018 by individual institution⁵⁵².

⁵⁴⁴ BSL, Official Gazette of RS, Nos. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13-corrected, 108/13 and 142/14, Articles 92a to 92w.

⁵⁴⁵ FS 2017-2019, p. 55.

⁵⁴⁶ Report on the implementation of the PFM RP 2016-2020 for the period December 2015-June 2016.

⁵⁴⁷ Republic of Serbia Fiscal Council "Assessment of the Draft Law on Budget for 2017" and International Monetary Fund "Serbia Country Report № 16/386", December 2016.

⁵⁴⁸ Data provided by the MoF.

⁵⁴⁹ Republic of Serbia Fiscal Council "Assessment of the Draft Law on Public Budget for 2017".

⁵⁵⁰ International Monetary Fund, "Country Report on Serbia", No. 16/386, December 2016.

⁵⁵¹ *Idem*, p.10.

⁵⁵² ERP 2016-2018, p. 38, http://www.mfin.gov.rs/UserFiles/File/dokumenti/2016/ERP-2016_en.pdf.

Taking into consideration the above information and data, the value for the indicator 'Quality of the medium-term budgetary framework' is 2.

Quality of the medium-term budgetary framework						
This indicator measures how well the medium-term budgetary framework (MTBF) is established as a fiscal plan of the government, focusing on the process of budget preparation and four areas that influence the quality of the budget documents. A good MTBF should increase transparency in budget planning, contribute more credible forecasts and ultimately lead to a better general government budget balance.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of the medium-term budgetary framework	4/12
2. Strength of the fiscal rules	2/5
3. Credibility of medium-term revenue plans (%)	3/4
4. Credibility of medium-term expenditure plans (%)	3/4
Total⁵⁵³	12/25

The MoF publishes the MBTF, covering general government revenues and expenditures for the following two years. The MTBF is prepared under the co-ordination of the MoF, with the collaboration of all budget beneficiaries. The credibility of its forecasts has improved, but expenditure projections are not based on the actual programme needs of budget beneficiaries.

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 BSL⁵⁵⁴ provides clear prescriptions for a budget to be transparent and comprehensive in scope. It also establishes a clear calendar, but this provides only six weeks for the Parliament to debate and approve the Annual Budget – which is half the international standard time of three months⁵⁵⁵. The BSL requires the financial plans of the mandatory social insurance organisations (MSIOs) to be presented as part of the Budget⁵⁵⁶.

The MoF formulates the budget with the contributions of line ministries, within a three-year medium-term framework. Although line ministries must structure their budgets by programmes, their budget requests are not prepared based on organisational strategic and operational plans and systematic programme analysis. The MoF has not yet approved the planning rulebook. The MoF must issue the budget instructions by 5 July, yet in 2016 budget beneficiaries received them and the expenditures ceiling on 15 November, giving them just seven days to prepare and send their final requests⁵⁵⁷. On 1 December 2016, the Government sent the 2017 Budget Bill to the Parliament, which adopted the Budget Law on 10 December 2016.

⁵⁵³ Point conversion ranges: 0-3 = 0, 4-8 = 1, 9-13 = 2, 14-18 = 3, 19-22 = 4, 23-25 = 5.

⁵⁵⁴ BSL, Official Gazette of RS, Nos. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13-corrected, 108/13 and 142/14, Articles 27c-27f.

⁵⁵⁵ OECD Best Practice for Budget Transparency, Article 1.1.

⁵⁵⁶ BSL, Article 32.

⁵⁵⁷ BSL, Article 31 and data provided in interviews with the MoF and budget beneficiaries.

The 2017 Annual Budget document presents the macroeconomic and fiscal assumptions for the budget and the appropriations broken down by administrative units and programmes. However, this document does not provide either medium-term or long-term projections for administrative units and programmes, or the latest current year (2016) estimates for revenues and expenditure on an ESA basis. Nor does it provide information on the assessment of effects of new policies and investment priorities. Capital and current expenditures are separated for each public institution. The budget submitted to the Parliament for 2017 included all Instrument for Pre-accession Assistance (IPA) funds⁵⁵⁸.

In 2016, the difference between forecast and actual revenues was +9.1 %, which partially reflects the fact that the budget figures were prepared on the basis of conservative estimates. The difference between expenditure projections and outturns was -3.67 %, which reflects that the additional revenues were not used to increase expenditure⁵⁵⁹.

The budget is structured by programmes, including performance data and policy information, but resources are not distributed according to analysis and negotiations on a programme basis⁵⁶⁰. There are new legal requirements to assess the budget impact of policy documents (legislation, strategies and related documents)⁵⁶¹, but budget beneficiaries have not yet systematically followed the new rules⁵⁶². The MoF is providing support and guidance on how to develop and present the estimated financial impact⁵⁶³.

Capital budget implementation has been a problem for many years. Nevertheless, in 2016 the budget execution of investment projects was relatively high (80.29 % of the budget appropriation). Until now, budget beneficiaries have not presented multi-year projections of the capital costs of investment projects. While there are plans to improve the planning and management of capital investment through a Government decree that is being drafted and through the National Investment Council, co-chaired by the MEI⁵⁶⁴ and the MoF, at present the MoF does not undertake cost-benefit analysis of capital-investment projects and rank them according to Government priorities.

Given the above considerations, the value for the indicator 'Quality of the annual budget process and budget credibility' is 2.

⁵⁵⁸ Data provided by the MoF. These funds are presented as part of the total donations to the Republic of Serbia. This improvement was recommended in the 2015 Baseline Measurement Report.

⁵⁵⁹ Data provided by the MoF.

⁵⁶⁰ Information provided at interviews with the MoF and budget beneficiaries.

⁵⁶¹ By-Law on the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget (110-00-171/2015-03 of 31 March, 2015).

⁵⁶² Data provided in interviews with the MoF and budget beneficiaries.

⁵⁶³ Report on the implementation of the PFM RP 2016-2020 for the period December 2015-June 2016 and information provided in interviews with the MoF and budget beneficiaries.

⁵⁶⁴ The Serbian European Integration Office (SEIO) became the Ministry of European Integration (MEI) on 26 June 2017; hereafter in this chapter, in compliance with the name of the institution, "MEI" rather than "SEIO" is used unless SEIO is part of the title of a publication or law.

Quality of the annual budget process and budget credibility

This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi-annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
1. Operational alignment between the MTBF and the annual budget process	2/4
2. Reliability of the budget calendar	1/4
3. Transparency of the budget proposal before its adoption in parliament	2/8
4. Quality in the budgeting of capital investment projects	3/5
5. Parliamentary scrutiny of the annual budget	1/5
6. Transparency and predictability of procedures for in-year budget adjustments	2/4
7. Credibility of revenue plans in the annual budget (%)	1/4
8. Credibility of expenditure plans in the annual budget (%)	3/4
Total⁵⁶⁵	15/38

The MoF prepares the Annual Budget with the contributions of line ministries, within a three-year medium-term framework and in accordance with the BSL. The budget calendar is not respected, however, and the time for budget preparation is too tight for a proper assessment and debate among the main participants. The budget is structured by programmes. However, budget beneficiaries' requests are not prepared on the basis of their organisational strategic and operational plans or systematic analysis of their programmes.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should base the FS on information related to budget beneficiaries' actual initiatives, using it as a bridge between their strategic and operational plans and the Government's priorities.
- 2) The MoF should strengthen the analytical capacity of the Budget Department, as the success of current reform efforts (e.g. budget monitoring and reporting on a programme basis and introducing fiscal impact assessments of new policies) is predicated upon the guidance and co-ordination capacity of the Department. Similarly, the planning and analytical capacity of the financial management units among budget beneficiaries should be enhanced.
- 3) The Government should clarify co-ordination between the MoF and the NIC, to state whether the NIC will deal with all strategic projects or only with those being co-financed by the EU and how the results of its decisions will be integrated into the budget.
- 4) Now that central capital investment management capacity is being developed, the Government should clarify both the distribution of competences among the main actors and the procedures to ensure its integration in the budget process.
- 5) The Parliament should increase the analytical capacity of the Parliamentary Committee of Finance, Budget and Control.

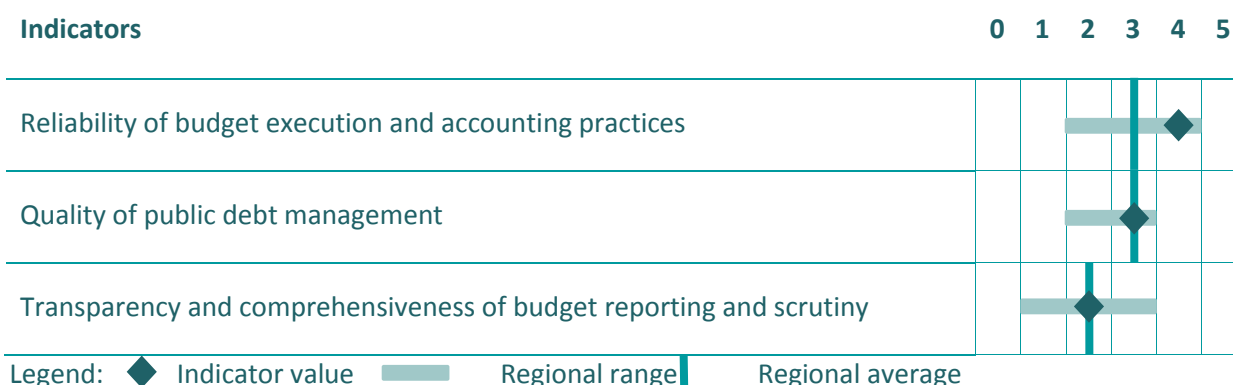
⁵⁶⁵ Point conversion ranges: 0-6 = 0, 7-13 = 1, 14-20 = 2, 21-26 = 3, 27-32 = 4, 33-38 = 5.

Medium-term (3-5 years)

- 6) The MoF should improve the FS by incorporating: 1) linkages of strategic and operational plans of budget beneficiaries to the Government's priorities; 2) performance information; and 3) a list of investment projects.

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.

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



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.

The Treasury Administration (TA) ensures liquidity using a Treasury Single Account (TSA)⁵⁶⁶. The TA is responsible for keeping a record of all transactions executed through the TSA. The Treasury ledger maintains a full record of all payments according to an organisational, functional, programme, three-digit economic, six-digit economic and source-of-financing classification. A coding structure facilitates a detailed analysis of expenditure and income. The central government's bank balances are consolidated on a daily basis. All central government bank accounts are linked to the TSA and are reconciled with the accounting and treasury information systems. Budget formulation, execution and reporting present expenditures that are classified by level of administrative, economic and functional criteria⁵⁶⁷.

The TA prepares an annual cash profile at the start of the year for the upcoming 12 months although it does not publish it. Monthly cash flow statements are published for each direct budget beneficiary, without information on deviations. By the 15th of each month, direct budget beneficiaries send the TA an estimate of the next month's cash requirements.

In order to advance with the implementation of the Law on Late Payments in Commercial Transactions⁵⁶⁸, the Registry of Settlements of Pecuniary Commitments (RINO) has been extended, so that it applies to transactions between public sector entities as of 1 January 2016. Furthermore, the MoF publishes a daily report on the arrears of all public sector organisations on its website⁵⁶⁹. However,

⁵⁶⁶ BSL, Article 9.

⁵⁶⁷ Annual Budget Law 2017 and Public Finance Bulletin No. 148, December 2016.

⁵⁶⁸ www.trezor.gov.rs/uploads/file/Zakoni/Law%20on%20late%20payments%20in%20commercial%20transactions.pdf.

⁵⁶⁹ <http://www.mfin.gov.rs/pages/article.php?id=9503>.

while the official arrears figure at the end of 2016 was 0.02% of GDP, the IMF has reported that certain SOEs and health centres accumulated arrears totalling 0.6% of GDP up to April 2017.

SOEs are not required to get prior approval from their controlling body before undertaking fiscal risk. These enterprises present a serious risk to the public finances, and their restructuring is considered an essential element of the Government's fiscal consolidation programme, as outlined in the FSs of 2015-2017 and 2016-2018. More than half of the deficit pertains to expenditures originated by these enterprises, and new SOE arrears keep accumulating⁵⁷⁰.

Since 1 January 2016, the FMIS coverage has been enlarged, including now in the accounting and reporting framework for 247 new indirect budget beneficiaries (judicial authorities: courts and public prosecutors' offices). Furthermore, the MoF is taking preparatory measures to incorporate cultural organisations and prisons in 2018⁵⁷¹.

The accounting standards are consistent with international standards and allow the provision (through adjustments) of data in compliance with ESA 2010⁵⁷². Financial reports highlight the accounting standards applied in their preparation⁵⁷³.

A working group within the MoF is preparing better alignment with ESA standards. Thus far, it has prepared a gap analysis between current cash accounting practice and accrual International Public Sector Accounting Standards, as well as a road map towards full accrual accounting in the government sector⁵⁷⁴.

In view of the above-given description and analysis, the value for the indicator 'Reliability of budget execution and accounting practices' is 4.

⁵⁷⁰ Fiscal Council Report "Assessment of the Draft Law on Budget for 2017".

⁵⁷¹ Report on the implementation of the PFMRP 2016-2020 for the period December 2015-June 2016 and interviews at the TA.

⁵⁷² Information provided by the MoF and Public Finance Bulletin, pp. 99-103.

⁵⁷³ Decree on the Application of International Accounting Standards for the public sector, "Official Gazette of RS", No. 49 of 21 July 2010 and 63 of 15 July 2016; Report on the implementation of PFMRP 2016-2020 for the period December 2015-June 2016; and Public Finance Bulletin, pp. 99-103.

⁵⁷⁴ Information provided by the MoF.

Reliability of budget execution and accounting practices

This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.

Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
1. Presence of a treasury single account (TSA)	2/2
2. Frequency of revenue transfer to the TSA	1/1
3. Frequency of cash consolidation	1/1
4. Credibility of cash-flow planning	2/2
5. Budget classification and chart of accounts	2/2
6. Frequency of bank-account reconciliation (for all central government bank accounts)	2/2
7. Availability of data on the stock of expenditure arrears	2/2
8. Expenditure arrears (%)	1/3
Total⁵⁷⁵	13/15

The TA is responsible for keeping a record of all transactions executed through the TSA. Central government bank accounts are reconciled with the accounting and treasury information systems. Planning of cash requirements and monitoring of in-year expenditures are weak. Cash planning is prepared on a month-to-month basis, with monthly allocations being decided on the 15th of the preceding month.

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.

According to the BSL (Article 27g 4), the debt of the general government should not exceed 45% of GDP. The Public Debt Law (PDL) sets out the legal framework for debt management. It defines public debt and establishes the responsibilities of the key government bodies, including the MoF and the PDA⁵⁷⁶. The PDA carries out central government borrowing. The PDL also limits the borrowing powers of local governments and the MSIOs so that these entities may borrow only with the permission of the central government. Neither the PDL nor the BSL prevent SOEs from borrowing, and the PDL allows the Government to guarantee borrowing by these companies.

All budget beneficiaries and SOEs send debt information to the PDA on a monthly basis. The PDA cross-checks information by requesting debt data from creditors, and it supervises plans and balances of

⁵⁷⁵ Point conversion ranges: 0-1 = 0, 2-4 = 1, 5-7 = 2, 8-10 = 3, 11-13 = 4, 14-15 = 5.

⁵⁷⁶ PDL, Official Gazette of RS, No. 61/05, 107/09, 78/2011 and 68/2015, <http://www.javnidug.gov.rs/upload/Zakoni/Zakoni%20engleski/Public%20Debt%20Law%20eng.pdf>

SOEs and public enterprises. The PDA prepares and publishes monthly and quarterly reports⁵⁷⁷. These include information on: the debt and guarantees of all levels of Government, SOEs and public enterprises, the debt stock and structure (currencies, fixed/variable interest rates, maturity profiles), and a historical perspective and risk analysis of the public debt. These reports do not, however, present and analyse deviations from initial targets. There is no annual report on debt management as such. Nevertheless, the PDA publishes a Debt Management Strategy (DMS) including information and trends on public debt in recent years, debt targets for following three years and risks and sensitivity analysis. The DMS is presented in the FS document. The SAI audits the public debt⁵⁷⁸.

The legal limit of the debt-to-GDP ratio has been surpassed in each of the past eight years. The debt-to-GDP ratio increased continuously between 2008 (28.3% of GDP) and 2015 (76.0% of GDP). Still, the Government's structural adjustment measures to stabilise the public debt have started to produce positive results. In 2016, the general government public debt dropped 2.5 percentage points, to 73.5 % of GDP⁵⁷⁹. This reduction materialised sooner than expected, as the Government's fiscal consolidation programme for 2015-2017 aimed to stabilise the debt ratio at about 79% in 2016 and 2017. It is notable also that the general government public debt ratio fell significantly in the first six months of 2017, to 66.6% of GDP⁵⁸⁰. According to the Fiscal Council, however, the continuation of public debt reduction depends on the implementation of several public sector structural reforms (e.g. modernisation of the TA, rationalisation of the salary system and management reform of underperforming SOEs)⁵⁸¹.

The share of public debt with a fixed interest rate increased from 76.6% in 2015 to 79.5% in 2016, maintaining the growing trend since 2013. In 2016, the share of general government public debt denominated in US dollars (USD) (33.9% of the total public debt) increased 1.5% from its level in 2015, while the share of debt denominated in euros (EUR) (40.22%) and Serbian dinars (RSD) (20.90%) decreased 0.7 % and 1.4 % respectively from their 2015 levels. This variation is in line with the four-year trend of a growing weight to USD-denominated public debt since 2013, when the share was 27.1% and the share of EUR-denominated public debt was 46.4%. For this period, the share of RSD-denominated public debt increased only 0.4%, from 20.5% in 2013 to 20.9% in 2016⁵⁸². Despite the intention to augment the share of medium-term and long-term financial instruments denominated in RSD in local markets (with some success from 2013 to 2015), the share decreased in 2016. This means there is a growing risk that a potential appreciation of the USD and the EUR could affect the public debt targets.

In light of the above-mentioned details, the value for the indicator 'Quality of debt management' is 3.

⁵⁷⁷ Public Debt Monthly Report Public Debt Stock and Structure: www.javnidug.gov.rs/eng/default.asp?P=76; and Public Debt Quarterly Reports: <http://www.javnidug.gov.rs/eng/default.asp?P=118&MenuItem=4>

⁵⁷⁸ Law on the State Audit Institution of November 2005, Article 9, Official Gazette No. 101/05 and its Amending Law of May 2010, Official Gazette No. 36/10.

⁵⁷⁹ Public Finance Bulletin No. 148 December 2016, pp. 44 and 89. The public debt level in 2016 was 74% of GDP, according to data provided by the MoF and shown in Macroeconomic and fiscal data, February, 2017, Table 5 - Public Debt of the Republic of Serbia in the period 2000-December 2016, http://mfin.gov.rs/?change_lang=en.

⁵⁸⁰ Current Macroeconomic Developments, June 2017, MoF, Department of Macroeconomic and Fiscal Analysis and Projections, p. 66, <http://www.mfin.gov.rs/UserFiles/File/tabele/2017%20jul/Current%20Macroeconomic%20Developments.pdf>.

⁵⁸¹ Fiscal Council on the Assessment of the Fiscal Strategy for 2016 and Issues in the Implementation of Structural Reforms: http://www.fiscalcouncil.ro/opinie_engleza_sfb_2014_2016.pdf

⁵⁸² Public Debt Administration, Monthly Report: Public Debt Stock and Structure, December 2016, p. 5; and FS 2017-2019, p. 78.

Quality of public debt management						
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to GDP, and the difference between public sector debt outturn and target.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Existence of requirements and limitations for borrowing in the legal framework	2/3
2. Existence and minimum content of a public debt management strategy	4/4
3. Clarity of reporting on public debt	3/4
4. Risk mitigation in the stock of public debt	2/6
5. Difference between public sector debt outturn from target (%)	3/3
6. Public debt as a share of GDP (%)	1/2
Total⁵⁸³	15/22

The debt target of the BSL of 45% of GDP has been surpassed in the past eight years. Nevertheless, Government measures to stabilise public debt started to produce positive effects in 2016. The PDL sets out the legal framework for debt management, including the responsibilities of the main government bodies. The PDA publishes a DMS, including information and trends on public debt in recent years, debt targets for the following three years, and risks and sensitivity analysis. Public debt management (planning, monitoring and reporting) complies with legal obligations. In-year reports do not present and analyse deviations with respect to initial public debt targets.

Principle 5: Transparent budget reporting and scrutiny are ensured.

The BSL provides for transparency and scrutiny of financial statements. The MoF complies with the basic legal requirements. The MoF publishes monthly reports, the Public Finance Bulletin (PFB), showing macroeconomic and fiscal trends. This report presents the main elements of budget execution (i.e. public revenues and expenditure, consolidated balance and financing flows) at the aggregated level. However, it does not break down expenditure figures for individual budget organisations and this information is not published anywhere. It contains consolidated data for the general government broken down by levels of government, social security and other extra-budgetary funds compiled according to Government Finance Statistics 2001⁵⁸⁴.

No budget execution profile is published at the beginning of the year. This prevents regular in-year analysis of budget execution deviations. The MoF publishes the PFB within four weeks of the end of the reported month. However, the PFB report does not explain variations from the profile or include future spending commitments. Nor does it provide data about individual budget beneficiaries. This information is not contained in any other publication.

The PDA publishes its report on borrowing each month within four weeks of the month-end Public Debt Administration Monthly Report⁵⁸⁵.

In 2016, the MoF prepared two reports on budget execution, the first covering the period from January to June and the second covering January to September, and sent them to the Parliament for

⁵⁸³ Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-16=3, 17-19=4, 20-22=5.

⁵⁸⁴ Public Finance Bulletin No. 148, December 2016.

⁵⁸⁵ www.javnidug.gov.rs/eng/default.asp?P=76.

information purposes⁵⁸⁶. These reports are used internally as input for the preparation of the next year's FS.

The annual financial statement is in a similar format to that of the Budget and presents only basic information on budget allocation, executed budget figures and the differences between the two. It does not present any analysis of variations, details of state assets or non-financial performance information⁵⁸⁷.

The latest amendments to the BSL obligate direct budget beneficiaries to provide budget programme and performance execution information to the MoF⁵⁸⁸. Thus, budget reporting of 2016 budget execution is to be prepared on a programme basis.

Financial statements for local governments are published quarterly and annually. The MoF also prepares internal monthly reports on local government budget execution. The MoF publishes an annual consolidated report on the financial position of all local governments⁵⁸⁹. SOEs submit business plans and Annual Balance Statements to the MoF, and extra-budgetary organisations submit financial reports to the Ministry.

Article 92 of the BSL requires that the annual financial statement be subject to external audit by the SAI. On 6 September 2016, the Finance, Budget and Control Committee of the Parliament dedicated one day to review and adopt, among other things, the Activity Report of the SAI for 2015. This Report includes information on the results of the SAI's audits of the 2015 financial statements of state budget institutions. Later, on 28 December 2016, the SAI's Report on the Budget Accounts for 2015 (which covers 184 budget institutions and approximately 11 000 indirect budget beneficiaries) was submitted to the National Assembly. The submission was 18 days later than the date of adoption of the Annual Budget for 2017 and did not lead to a discussion in Parliament.

Given the analysis above, the value for the indicator 'Transparency and comprehensiveness of budget reporting and scrutiny' is 2.

⁵⁸⁶ Information provided by the MoF.

⁵⁸⁷ Annual financial statement, www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/2594-14Lat.pdf.

⁵⁸⁸ BSL Articles 28, 31, 37, 78.

⁵⁸⁹ Information provided by the MoF.

Transparency and comprehensiveness of budget reporting and scrutiny

This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.

Overall indicator value 0 1 **2** 3 4 5

Sub-indicators	Points
Comprehensiveness of published information	
1. Quality of in-year reports of government revenue, expenditure and borrowing	5/7
2. Quality of the annual financial report of the government	3/7
3. Quality of annual reports of state-owned enterprises, extra-budgetary funds and local government	1/5
4. Clarity of national accounting standards and consistency with international standards	4/4
5. Existence of reporting on fiscal risks identified in the budget	0/1
Scrutiny and oversight using published information	
6. Quality of the annual financial reporting on the use of public finances	1/3
7. Timeliness of dissemination of the SAI report to the national parliament	2/2
8. Timeliness of parliamentary discussion on the report of the SAI	0/3
Total⁵⁹⁰	16/32

The BSL provides for transparency and scrutiny of financial statements. Budget execution reports present the basic elements of budget execution but do not break down expenditure figures for individual budget organisations. The MoF does not publish the budget execution profile at the beginning of the year, preventing an analysis of deviations from targets. The annual financial statement is in a similar format to that of the Budget. The Audit Report of the SAI on the annual budget accounts is not discussed in Parliament.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should reinforce its capacity and the capacity of Financial Management units in direct budget beneficiaries to ensure that budget reporting incorporates non-financial performance information on budget programmes.
- 2) The MoF should develop and implement evaluation mechanisms to improve programme budget information on a regular basis.
- 3) The MoF should publish a monthly profile of planned expenditure and revenue at the beginning of the year and should compare actual outcomes versus the profile and explain significant differences.
- 4) The MoF should include in the Annual Financial Statements explanations and analysis of significant variations in expenditure at the budget beneficiary level.

⁵⁹⁰ Point conversion ranges: 0-7=0, 8-12=1, 13-17=2, 18-22=3, 23-27=4, 28-32=5.

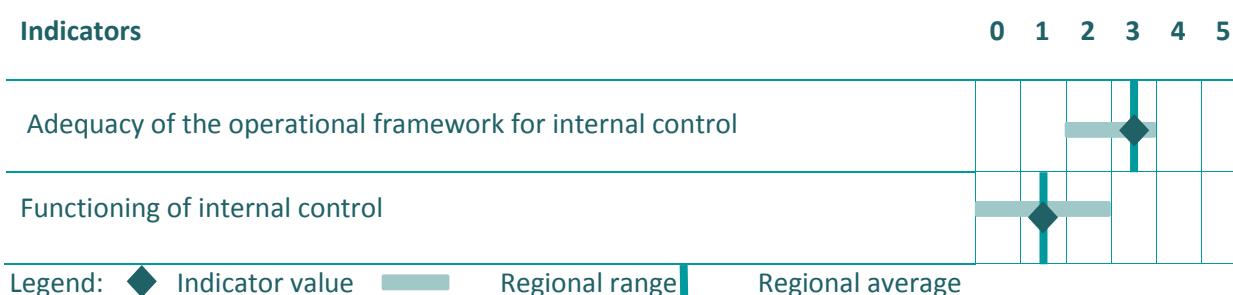
Medium-term (3-5 years)

- 5) The MoF should amend the Monthly Finance Bulletins so they present spending data by individual direct budget beneficiary.

Internal control and audit

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The BSL⁵⁹¹ is the main legislation on FMC and is supported by secondary legislation, which includes the Rulebook on Joint Criteria and Standards for Establishing, Functioning and Reporting of the System of Financial Management and Control in the Public Sector⁵⁹² (the FMC Rulebook). The FMC Rulebook was last amended in 2013 and, according to the Strategy for Development of Public Internal Financial Control in the Republic of Serbia for the period 2017-2020 (the PIFC Strategy), it is expected to be revised in 2017 to include managerial accountability aspects. More detailed guidance in the area of FMC is provided in the FMC Manual⁵⁹³ and in supporting training material, which have no legal status. In 2016, new guidelines and training booklets were developed in the areas of FMC and risk management. According to the PIFC Strategy, FMC methodology and guidelines are expected to be upgraded in 2017.

The CHU within the MoF is tasked with harmonising and co-ordinating financial management and control and IA⁵⁹⁴ but its role is limited to such activities as definition of the common criteria and standards, training, IA certification, and consolidation of the annual report on FMC and IA. The CHU has

⁵⁹¹ BSL, Official Gazette 99/2016.

⁵⁹² MoF, Rulebook on Joint Criteria and Standards for Establishing, Functioning and Reporting of the System of Financial Management and Control in the Public Sector, Official Gazette Nos. 99/2011 and 106/2013.

⁵⁹³ MoF (2010), Financial Management and Control Manual, developed through the Technical Assistance project PIFC/IA phase 2, EU-funded project managed by the European Agency for Reconstruction.

⁵⁹⁴ BSL Articles 80 and 83, Official Gazette 99/2016.

ten positions stated in the MoF Systematisation Act, with eight people in place⁵⁹⁵, of whom four are for the FMC Harmonisation Department.

Three strategy documents have been developed which address the actions relating to FMC in Serbia: 1) the Public Administration Reform Strategy (PAR Strategy)⁵⁹⁶ and its Action Plan 2015-2017⁵⁹⁷; 2) the PFMRP (especially Measures 11-12); and 3) the PIFC Strategy. Although the PIFC Strategy 2009-2014⁵⁹⁸ should have been replaced by the end of 2014, it was finally adopted by the Government on 13 May 2017. The PIFC Strategy is mainly a document for CHU actions, as 35 (out of 40) action items are in the CHU's responsibility and the remaining 5 in that of the Ministry of Public Administration and Local Self-government. The PFMRP is only partially implemented. According to the PFMRP Report with a June 2016 cut-off date⁵⁹⁹, out of seven action items with deadlines at the end of 2016, only one was implemented (relating to a CHU functional review); the others were partially implemented.

In accordance with Article 13 of the FMC Rulebook, 642 managers of Beneficiaries of Public Funds (BPFs)⁶⁰⁰ submitted a self-assessment questionnaire to the CHU in 2016 (covering the financial year 2015). The CHU analysed 591 BPF reports, as the rest were either incomplete or blank. Although this represents only 5.6% of the total number of BPFs⁶⁰¹, the CHU should not be expected to analyse questionnaires for the small indirect budget beneficiaries, such as schools, health centres and police stations, and those reports which are analysed cover the vast majority of public expenditure. Furthermore, the CHU intends to introduce amending legislation that will require direct BPFs to report on behalf of the small indirect budget beneficiaries for which they are responsible.

While according to BSL Article 83, the CHU annually compiles a Consolidated Annual Report on the Status of Public Internal Financial Control and submits it to the Government, the CHU is not responsible for analysing the individual internal control systems or for following up on the implementation of the recommendations made therein. The consolidated report for 2015 was submitted and adopted by the Government only in December 2016. In total, the Government approved four recommendations in the FMC area, all of which allocated the tasks to the CHU rather than to the BPFs. Accordingly, the CHU shall provide assistance with mapping the business processes, appointing FMC managers and working groups, and organising training courses and workshops.

While the internal control systems of both national and the EU-funded programmes are based on the five elements of the Committee of Sponsoring Organisations (COSO) framework⁶⁰², actual guidance and monitoring are carried out by different institutions (CHU for national, and the National Authorising Officer Support Office for the EU⁶⁰³) and under different laws. The same applies to the control

⁵⁹⁵ Consolidated Annual Report on the Status of Public Internal Financial Control in the Republic of Serbia in 2015.

⁵⁹⁶ PAR Strategy in the Republic of Serbia, Official Gazette Nos. 9/14 and 42/14-corr., adopted on 24 January 2014.

⁵⁹⁷ Action Plan for the Implementation of PAR Strategy in the Republic of Serbia 2015-2017, Official Gazette No. 31/15, adopted on 19 March 2015.

⁵⁹⁸ Strategy for Development of Public Internal Financial Control in the Republic of Serbia. Belgrade, August 2009.

⁵⁹⁹ Report on the implementation of the PFMRP 2016-2020 for the period December 2015-June 2016.

⁶⁰⁰ BPFs include direct and indirect budget beneficiaries, including local authorities and public enterprises controlled by the central government or local authorities.

⁶⁰¹ In total 10 507 Beneficiaries of Public Funds (BPFs), based on the "List of beneficiaries of public funds by groups and subgroups in accordance with section 93a of the Budget System (Official Gazette Nos. 54/09, 73/10, 101/10, 101/11, 62/13, 63/13 and 108/13 edited)", compiled by the Treasury, MoF (31 January 2017).

⁶⁰² The COSO framework comprises five elements: Control environment, Risk management, Control activities, Information and communication, and System monitoring and assessment.

⁶⁰³ The National Authorising Officer responsibilities are assigned to the MoF State Secretary and the NAO Support Office responsibilities to the Department for Management and Control System under IPA in the Department for EU Funds Management within the Ministry of Finance, in accordance with the "Decision on the Appointment of the Responsible Persons and Bodies in the Management of EU Pre-Accession Assistance Programmes under the Instrument for Pre-Accession Assistance (IPA II) for the Period 2014-2020" (Official Gazette 05 No. 119-12200/2016 of 23 December 2016).

procedures in public procurement, payment authorisations and irregularities. However, the MoF currently is working to streamline the operations of the Budget Inspection for National Budget Funds and the Anti-Fraud Co-ordination Service (AFCOS) under a single management structure within the framework of the existing legislation.

As several reform actions are still ongoing and expected to be completed only in 2017, the overall value for the indicator 'Adequacy of the operational framework for internal control' is 3.

Adequacy of the operational framework for internal control						
This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms						
A separate indicator measures the implementation of the operational framework for internal control.						
Overall indicator value	0	1	2	3	4	5
Sub-indicators	Points					
1. Policy for the development of internal control	4/6					
2. Completeness of the regulatory framework for internal control	3/5					
3. Comprehensiveness and regularity of the annual review and reporting on internal control	4/5					
4. Alignment between national budget management and control systems and those for EU-funded programmes	0/4					
Total⁶⁰⁴	11/20					

While the operational framework for FMC is in place, its implementation remains weak. No analysis has been made to date on the coherence of the PIFC legislation with other horizontal legislation, and the framework lacks specific provisions enabling the delegation of decision-making authority within the central government organisations and on managerial accountability. A new PIFC Strategy 2017-2020 was adopted in May 2017, and the PIFC-related actions for the latest calendar year in the PFMRP are only partially implemented. The late approval of the consolidated PIFC Report for 2015 and its content indicate that the Government does not use its tools to improve the low implementation of FMC in BPFs. Management and control systems for EU-funded programmes have not been aligned with the national budget management and control systems.

Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

All BPFs must introduce FMC⁶⁰⁵. According to the latest Treasury data, there are in total 10 507 BPFs, including: 1) 159 direct beneficiaries (including 16 ministries, the President, the Government, special organisations, budgetary funds and judicial authorities); 2) 3 MSIOs; 3) 2 529 indirect beneficiaries (including schools); 4) 881 direct beneficiaries of local government budgets; 5) 5 028 indirect beneficiaries of local government budgets; 6) 354 users of MSIOs' funds (including hospitals and pharmacies); 7) 1 292 legal entities either established or controlled by the Republic of Serbia; and 8) 218 SOEs.

⁶⁰⁴ Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-17=4, 18-20=5.

⁶⁰⁵ BSL, Article 81, Official Gazette No. 99/2016.

Figure 1. Overview of FMC implementation: Key elements in Serbia

Beneficiaries of Public Funds Elements	Republic Level				Other BPFs			Total
	Ministries	MSIO *	Other **	Subtotal	Local self-government	Other ***	Subtotal	
Reports submitted	16	3	104	123	94	374	468	591
Appointed FMC manager or working group	15	3	57	75	69	194	263	338
List of business processes drawn up/ (business mapping completed)	15 / (13)	3 / (3)	72 / (53)	90 / (69)	66 / (42)	296/ (186)	362/ (228)	452 / (297)
Internal controls established in business processes considering most important risks	14	3	71	88	64	263	327	415

Source: Consolidated Annual Report on the Status of Public Internal Financial Control in the Republic of Serbia in 2015, December 2016.

Notes:

* Republic Fund for Pension and Disability Insurance, Republic Fund for Health Insurance, and National Employment Office.

** Republic bodies (e.g. agencies, administrations, institutes, courts) and Republic enterprises.

*** Indirect beneficiaries (e.g. schools, hospitals, institutions) and public utility companies.

Figure 1 shows that: all central government central organisations⁶⁰⁶ but one ministry have appointed the FMC managers or working groups; all but two ministries have drawn up the map of business processes; and in all but one ministry, the internal controls were established in the business processes by taking into account the risk assessment.

The PIFC implementation among other beneficiaries at the Republic level is much weaker. Only 45% of the other institutions that submitted FMC reports had appointed an FMC manager or established a working group. The report does not provide specific information on the number of institutions where the internal procedures or risk registers were established, nor on irregularity reporting and management. Based on information from the sample of institutions⁶⁰⁷ assessed, however, only a few organisations have action plans of FMC strategies in place; risk assessment is not systematically carried out at the management level in ministries/institutions despite the fact that the FMC Rulebook⁶⁰⁸ prescribes this and that CHU has published guidelines on risk management⁶⁰⁹. There is no central

⁶⁰⁶ Central government central organisations are the 16 ministries and 3 social security organisations, according to the Consolidated Annual Report on the Status of Public Internal Financial Control in the Republic of Serbia in 2015.

⁶⁰⁷ The sample included ministries responsible for finance, transport and education and the road and tax administration. However, the Tax Administration was not available for meetings. The institutions did not provide evidence on the implementation of risk management procedures, including established risk registers.

⁶⁰⁸ FMC Rulebook, Article 6, Official Gazette 106/2013.

⁶⁰⁹ Public Sector Internal Financial Control, pp 21 to 29, Ministry of Finance, Central Harmonisation Unit, http://ifki.mfin.gov.rs/user_data/posts/Public%20sector%20internal%20financial%20control.pdf

rulebook for reporting on irregularities⁶¹⁰, nor is the system regulated at the level of individual institutions. Nevertheless, the Whistleblowers Protection Act⁶¹¹ was adopted at the end of 2014, and a system of reporting on the irregularity signals is in place⁶¹². The MoF Budget Inspectorate is tasked with analysing the signals and carrying out the inspections, by concentrating on the cases with higher possible financial impacts (due to staff constraints).

Although 2017 marks the third year when the Budget has been presented on a programme-budget basis, no general analysis has been conducted to date on the alignment between management and budget structures and, of three sample ministries assessed, only one was confirmed to have the structures aligned. The accountability scheme for subordinated bodies is bureaucratic rather than results-oriented.

According to a World Bank Report⁶¹³, in order to curb the accumulation of arrears, a Law on Deadlines for Payments in Commercial Transactions⁶¹⁴ was enacted, which mandates a timetable for the payment of arrears and fines for government officials. An electronic Registry of Settlements of Pecuniary Commitments was established to monitor arrears. This RINO data indicates that payment arrears amounted to RSD 9 billion (USD 79 million) at year-end 2015 (less than 1% of the total expenses planned in 2015 Budget Law). RINO data should be interpreted with caution, however, because the data submitted by budget beneficiaries is still not verified. The Budget Inspection monitors the implementation of the Law.

With regard to preparation, assessment, implementation, monitoring and reporting on the implementation of capital projects, the Government approved a decree⁶¹⁵ in June 2017. Although there is currently no reporting on the implementation of major investment projects, the decree provides for annual reporting of both financial and physical progress⁶¹⁶. Furthermore, there is reporting to the MoF Public Debt Department on the use of loans related to them⁶¹⁷.

While the legal and policy framework for internal control largely exists and indeed supports the FMC, understanding of the significance of FMC activities as an integral part of strategic and operational processes is low. As the FMC system in Serbia is not implemented fully in line with the legal framework, and in various cases the information on actual implementation is not available, the overall value for the indicator 'Functioning of internal control' is 1.

⁶¹⁰ The PIFC Strategy envisages the enhancement over the period 2017 to 2020 of irregularity reporting.

⁶¹¹ Whistleblowers Protection Act, Official Gazette No. 128/2014.

⁶¹² The irregularity reporting is possible by regular mail or e-mail, as instructed on the MoF website <http://www.mfin.gov.rs/pages/article.php?id=12886> (accessed 17 April 2017).

⁶¹³ The World Bank. Republic of Serbia, Modernisation and Optimisation of Public Administration Programme, Technical Assessment, April 20, 2016 <http://documents.worldbank.org/curated/en/603651467999088461/105198-WP-P155172-PUBLIC-Serbia-PforR-Technical-Assessment.docx> (accessed 17 April 2017).

⁶¹⁴ Law on Deadlines for Payments in Commercial Transactions, published on the Treasury website <http://www.trezor.gov.rs/uploads/file/Zakoni/Law%20on%20late%20payments%20in%20commercial%20transactions.pdf> (accessed 17 April 2017).

⁶¹⁵ The Decree on the Content, Method of Preparation and Evaluation, as well as Monitoring of Implementation and Reporting on Realisation of Capital Projects, Official Gazette, No. 63/2017.

⁶¹⁶ *Idem*, Article 3.15.

⁶¹⁷ The requested rulebooks and sample reports on the debt reporting were not made available.

Functioning of internal control						
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.						
Overall indicator value	0	1	2	3	4	5
Sub-indicators						Points
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies						2/3
2. Alignment between organisational and budget structures (%)						0/3 ⁶¹⁸
3. Credibility of controls for avoiding commitments above the expenditure ceilings						1/2
4. Availability of reporting of total cost and physical progress of major investment projects						1/2
5. Effectiveness of basic managerial accountability mechanisms for central government bodies						0/4
6. Delegation of decision-making authority within ministries						1/4
7. Regularity and completeness of risk management practices						0/3
8. Existence of reporting on irregularities						0/2
Total ⁶¹⁹						5/23

Most of the BPFs have not implemented FMC in line with the established legal framework. From the low percentage of the annual FMC reports that BPFs returned for the year 2015, it appears that only a few have complied with the legal requirements. The Consolidated Annual Report on the Status of PIFC in the Republic of Serbia in 2015 does not, however, make specific recommendations to any of the BPFs, nor is the follow-up on the implementation of those recommendations a statutory CHU obligation. Programme-based budgeting is not yet enforced through the managerial accountability of the institutions' programme managers, and the decision-making authority for the majority of technical matters remains with the ministers.

Key recommendations

Short-term (1-2 years)

- 1) To enhance the implementation of IA in Serbia, the Government should strengthen the approval process for the CHU Consolidated Annual Report on the Status of PIFC by including in its decision specific recommendations for the improvement of the IA system, together with follow-up measures.
- 2) The Government should strengthen the powers of the CHU by widening its responsibilities to include an analysis of the FMC system at the level of individual BPFs, as well as following up on the Government decisions related to improving the FMC system.

⁶¹⁸ No data provided.

⁶¹⁹ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

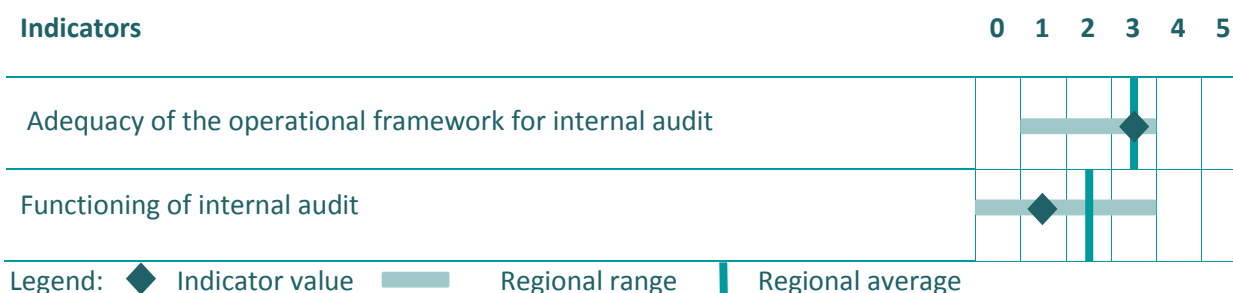
- 3) The Government should make resources available to the responsible entities to carry out the action plan of a new PIFC Strategy 2017-2020 in a timely manner.
- 4) The MoF should revise and update the FMC Rulebook and FMC Manual. The revision should take into account, among other items, an analysis of the coherence of PIFC legislation with other horizontal legislation. It should also ensure the introduction of managerial accountability principles (taking into account the system of programme budgeting) and foresee procedures for the CHU on conducting an analysis of the FMC system at the individual BPF level, as well as the follow-up on the Government decision on improving the FMC system.
- 5) The MoF should ensure that the good practices that apply to the management and control of IPA funds are applied to the management of all BPFs in the budget, including with regard to irregularity management.

Medium-term (3-5 years)

- 6) The MoF should develop proposals for increased emphasis on the use of performance indicators to measure efficiency and effectiveness, and therefore enable budget beneficiaries to achieve strategic objectives within budget limits.

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



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 legal basis for establishing the IA function and carrying out IA is the BSL, Article 82, and the Rulebook on Joint Criteria for Organisation and Standards and Methodological Instructions for the Conduct and Reporting of Internal Audit in the Public Sector⁶²⁰ (the IA Rulebook). IA is decentralised, with the CHU within the MoF tasked with: 1) harmonising IA, including defining common criteria for IA organisation and operation; 2) keeping a registry of authorised internal auditors in the public sector and IA charter registry; 3) providing occupational training, certification and supervision of the work of internal auditors; and 4) consolidating annual IA reports⁶²¹. One of the two CHU groups, with three staff, is allocated for IA and for executing this mandate.

The reform actions concerning IA are established in both the PFMRP (Measure 13) and the PIFC Strategy, focussing on training not only internal auditors but also BPF managers on the usefulness of IA, IA co-operation with other institutions (including the SAI), improvement of the quality assessment system and measures to increase the audit coverage. As the PIFC Strategy was adopted only in May 2017 and PFMRP IA-related actions have no deadlines in 2017 or thereafter, there are no activities implemented to date related to IA⁶²².

In accordance with the BSL⁶²³, 358 BPFs submitted the mandatory annual self-assessment questionnaires (i.e. IA reports) to the CHU for the year 2015 using a CHU template⁶²⁴. According to the BSL, the CHU is not responsible for analysing the individual IA reports or following up on the implementation of the recommendations made based on the consolidated report. Therefore, the Consolidated Annual Report on the Status of Public Internal Financial Control in Serbia in 2015 (Consolidated PIFC Report 2015) is merely a technical summary of the submitted reports; the findings

⁶²⁰ IA Rulebook, Official Gazette 99/2011 and 106/2013.

⁶²¹ BSL, Article 83.

⁶²² The status of PFMRP implementation is provided in the Report on the implementation of the PFMRP 2016-2020 for the period December 2015-June 2016.

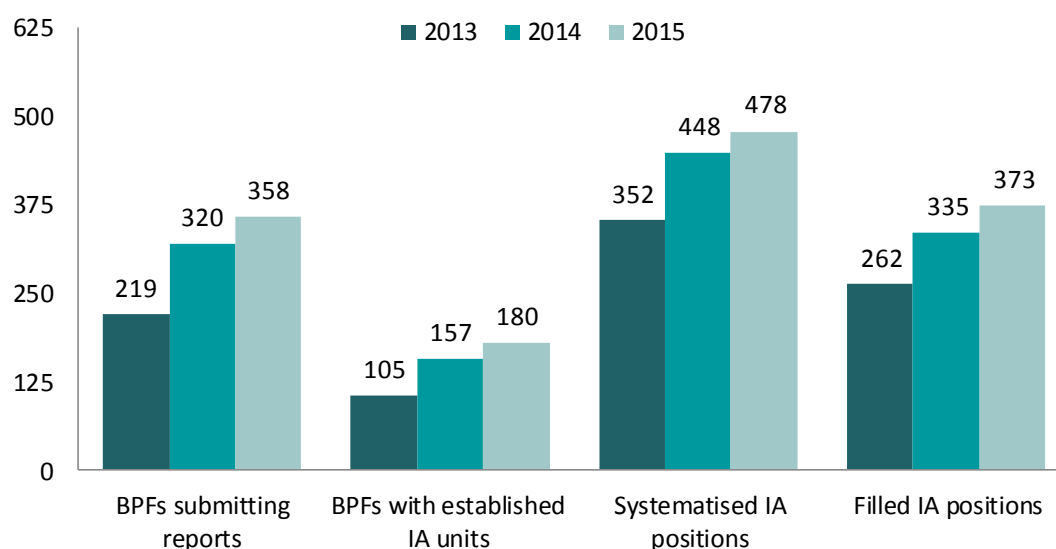
⁶²³ BSL, Article 82.

⁶²⁴ Consolidated Annual Report on the Status of Public Internal Financial Control in the Republic of Serbia in 2015.

are quantitative rather than qualitative, and the CHU does not analyse the needs of the internal auditors.

The exact number of institutions required to establish a separate IA function, or how many have IA organised based on an agreement with other BPFs, have not been made available. Of those who submitted IA reports, only 50% had actually established the units (180 IA units) by the end of 2015. At the state level⁶²⁵, the percentage is 71% (75 IA units), and at the level of other entities⁶²⁶, 42% (105 IA units). Among the 180 BPFs with an established IA unit, 478 positions have been created (259 at the national level and 120 in the others), and 78% are staffed. In total, there were 373 internal auditors in the BPFs at the end of 2015 (211 at the national level and 77 in the other IA units). At the end of 2016, 330 internal auditors had IA certificates⁶²⁷. Figure 2 illustrates the steady increase in IA capacities since 2013.

Figure 2. Comparison of Internal Audit capacities, 2013-2015⁶²⁸



Sources: The 2013 and 2014 data is from the 2016 SIGMA Monitoring Report. The 2015 data is from the Consolidated Public Internal Financial Control Report 2015.

All BPFs should ensure the IA function⁶²⁹, with a minimum of three internal auditors per IA unit. Only 23% of the established IA units have met the minimum national staffing requirement, with three or more internal auditors in place. At the end of 2015, some 14% had two internal auditors, and 63% had only one. This indicates a lack of compliance with international IA standards, as the quality control cannot be ensured with only one auditor.

⁶²⁵ The national level is defined in the Consolidated PIFC Report 2015 to include ministries, administrations within ministries, obligatory social security organisations, government bodies and government-owned companies.

⁶²⁶ The Consolidated PIFC Report 2015 categorises under the “other” entities local self-governments, indirect beneficiaries and public utility companies.

⁶²⁷ Data provided by the MoF.

⁶²⁸ OECD (2016), *Monitoring Report: Serbia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Serbia.pdf>;

Consolidated PIFC Report 2015:

http://ifki.mfin.gov.rs/user_data/posts/CONSOLIDATED%20REPORT%20ON%20THE%20STATUS%20OF%20PUBLIC%20INTERNAL%20FINANCIAL%20CONTROL%20IN%20THE%20REPUBLIC%20OF%20SERBIA%20IN%202015.pdf.

⁶²⁹ IA Rulebook, Articles 3-6, Official Gazette 99/2011 and 106/2013.

To support IA units in their work, the CHU has developed templates of an IA Charter, a code of ethics, job descriptions for the internal auditors and an IA Manual. It also organises training courses and IA certifications. The IA Manual currently in place dates from 2013, but it is still considered a draft. Prepared in accordance with the International Standards for the Professional Practice of Internal Audit (IIA Standards), October 2010 edition, it provides the audit approach and procedures for conducting system-based audits. There is no official analysis available on the actual needs of the IAs with regard to methodological guidance. The reform actions (PFMRP, PIFC Strategy) do not foresee updating the Manual in line with the new IIA Standards released in January 2017 or its adoption by the Government.

Although the CHU continuously organises training courses, both under the IA certification programme⁶³⁰ and on specific topics⁶³¹, a plan for professional development has not been formalised. It plans to establish a Rulebook for regulating continuous training of internal auditors⁶³², as well as an e-learning platform.

There is currently no formal procedure established for the national quality assurance scheme, nor is there a Quality Assurance and Improvement Programme in place or executed, as required under the IIA Standards. The CHU, however, performed an overview of IA work quality in ten ministries covering the period 1 January 2015 to 30 September 2016⁶³³. The overview report does not include findings and recommendations, thus fields of needed improvement remain unclear.

Given the details explained above, the value for the indicator 'Adequacy of the operational framework for internal audit' is 3.

Adequacy of the operational framework for internal audit						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.						
A separate indicator measures the implementation of the framework and the results achieved.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for internal audit	4/5
2. Organisational capacity for internal audit	3/5
3. Co-ordination, development and guidance of the internal audit system	2/5
4. Existence of a system for quality assurance for internal audit	1/3
Total⁶³⁴	10/18

⁶³⁰ The certification system is executed in accordance with the Rulebook on the Requirements and Procedure for Taking the Exam for Acquiring the Title of Certified Internal Auditor in the Public Sector, Official Gazette 9/2014 of 30 January 2014.

⁶³¹ In 2015, theoretical training on IA was organised for 106 BPF trainees, and practical training on performing IA was carried out in 29 BPFs on 40 candidates for the professional title of a licensed internal auditor (Consolidated PIFC Report 2015).

⁶³² Information provided by the MoF.

⁶³³ MoF, Department for Control and IA, Overview of the work quality of the internal audit. 401-00-04801/2016-09, 30 December 2016, http://ifkj.mfin.gov.rs/user_data/posts/Overview%20of%20the%20work%20quality%20of%20the%20internal%20audit%20%202016..pdf

⁶³⁴ Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

Although the legal and procedural base for conducting IA is largely in place, there is a lack of clarity about the exact number of BPFs required to establish an IA function. While the number of IA units and internal auditors is increasing steadily, the annual CHU report shows that only 50% of the BPFs required to do so have actually established IA units and only 25% meet the legal requirement of a minimum of three internal auditors. There are no programmes for continuous professional development or quality assurance.

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

The internal auditors are required, in performing their functions, to apply the international standards of internal audit and the IA Rulebook, as well as to comply with: the IA Charter; code of ethics; the principles of objectivity, competence and integrity; and the IA manual (BSL Article 82, IA Rulebook Articles 11-12). The IA Charter is to be concluded between the head of the entity and the head of the IA unit. According to the CHU⁶³⁵, all IA units in the ministries have an IA Charter signed by the minister and the head of internal audit/internal auditors. However, only one of the five sample institutions interviewed provided evidence of having concluded an IA charter.

IA work for each BPF is to be carried out in compliance with a three-year strategic plan, an annual plan and an individual engagement plan⁶³⁶. The strategic plan is adopted by the end of the year for the next three-year period, while the annual plans are adopted by the end of the year for the following year. The strategic plans are based on the long-term goals of the BPFs, risk assessment and consultations with the BPF management. In accordance with the Consolidated PIFC Report 2015, 161 BPFs of 180 returning their IA Reports had established strategic and annual plans. The remainder had established their IA unit only at the end of 2015, and the strategic and annual planning was in process.

Four of the five sample institutions interviewed provided evidence on their strategic and annual planning, including assessment of risks. The risk assessment, which is presented at a relatively high level, does not appear to cover all aspects of the entity but only the actual topics included in the strategic plan. The plans lack clear prioritisation of the audit subjects. Both plans include audits of the institutions implementing EU-funded projects (it is mandatory that these be carried out each year). The plans and the risk assessment implement different approaches and are not prepared according to the IA Manual.

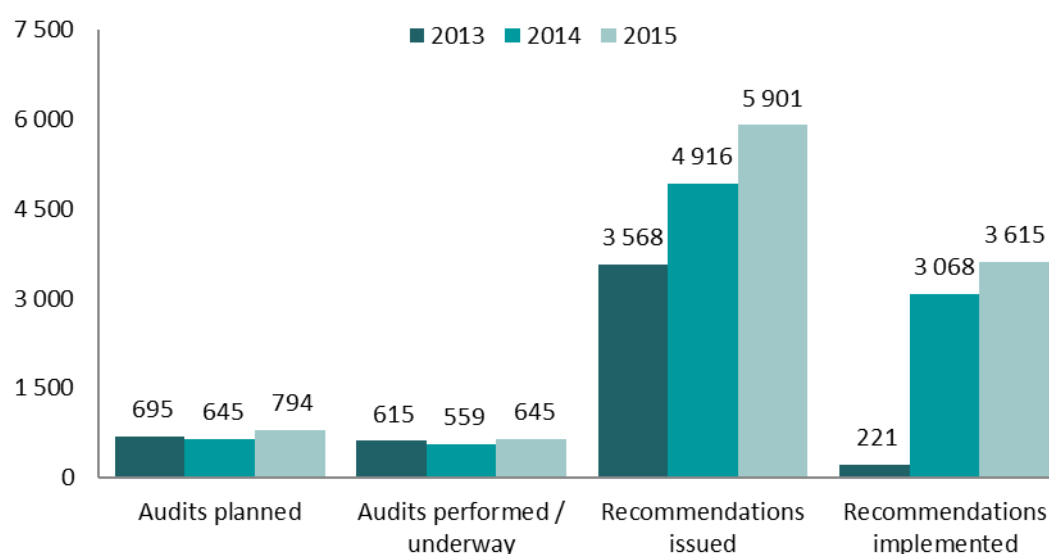
In 2015, 794 internal audits were planned, but only 645 were carried out, meaning 18% were not implemented⁶³⁷. If this number of 645 reflects the audits of 161 BPFs, that means an average of 4 audits per IA unit. This relatively small number of audits per IA unit appears to reflect the limited resources rather than the actual needs of the institutions. Among the reasons given were a reduction in the number of employees, changes in the annual plan of activities and a failure to take account of practical experience in the preparation of planning documents. As can be seen in Figure 3, the percentage of non-implementation has risen, as it was 18% in 2015 (compared to 12% in 2013). However, the number of planned audits, as well as the number of recommendations, has increased over the years. The number of recommendations has almost doubled.

⁶³⁵ MoF, Department for Control and IA, Overview of the work quality of the internal audit, 401-00-04801/2016-09, 30 December 2016.

⁶³⁶ IA Rulebook, Articles. 23-27, Official Gazette Nos. 99/2011 and 106/2013.

⁶³⁷ Consolidated PIFC Report 2015.

Figure 3. Output of Internal Audit work, 2013-2015



Sources: The 2013 and 2014 data is from the 2015 SIGMA Monitoring Report. The 2015 data is from the Consolidated Public Internal Financial Control Report 2015.

The Heads of the IA units are required to present IA reports to the heads of entities and follow the contradictory procedure⁶³⁸ described in the IA Rulebook. Most of the recommendations in 2015 were issued on internal rules and procedures (2 297), followed by public procurement (667) and bookkeeping and financial reporting (646).

While only 6% of the recommendations were implemented in 2013, this figure increased to 61% in 2014 and 62% in 2015. Although the implementation of recommendations still appears to be low, the reason stated in the Consolidated PIFC Report 2015 was that the recommendations which had not been implemented could still be completed since the deadline for their implementation was at a later date. However, an overview of the general implementation of recommendations after the year end is not available.

The indicator on the quality of IA reports cannot be assessed, as none of the five requested institutions submitted an IA report to SIGMA⁶³⁹. Nor was the topic covered in the Consolidated PIFC Report 2015, nor in the CHU Overview of the IA work quality issued in December 2016. Given the details described above, the value for the indicator 'Functioning of internal audit' is 1.

⁶³⁸ A contradictory process is where the auditee is allowed an opportunity to check facts and make comments but the IA unit makes the final decision.

⁶³⁹ Several requests were made, by both the CHU and SIGMA

Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of planning of internal audit in budget organisations	3/7
2. Quality of audit reports	0/6 ⁶⁴⁰
3. Follow-up and implementation of audit recommendations	2/3
Total⁶⁴¹	5/16

IA planning is based on strategic and annual plans. The plans and underlying risk assessment vary in structure and approach, based on the few examples seen. The very broad mandates of IA units may be disproportionate to the limited resources in these units, resulting in a low number of annual audits. The BPFs' implementation of IA recommendations has increased significantly, with over 60% implemented by 2015.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should ensure that the PIFC Strategy includes all necessary IA reforms, including the revision of the IA legislative and procedural framework.
- 2) The MoF should strengthen the legislative framework for the CHU to make it more proactive in guiding the development of the FMC and IA, including establishing the system of CHU quality reviews and follow-up on the recommendations made in the consolidated annual PIFC reports.
- 3) The CHU should perform an analysis of the IA procedural framework on compliance with the new IIA Standards released on 1 January 2017. Furthermore, the current and possibly changed IA needs of the BPFs since 2013 should be taken into account (including IPA, performance and financial audits) and the IA manual should be adjusted and adopted, as relevant. The IA manual should have an adequate legal basis for harmonising the IA practice in the Republic of Serbia.
- 4) The CHU should implement programmes for IA quality assurance in compliance with the IIA Standards.
- 5) The CHU should implement continuous professional development, ensuring the training needs of auditors with variable experience and in various fields.
- 6) To enhance the implementation of IA in Serbia, the Government should strengthen the approval process for the CHU Consolidated Annual Report on the Status of PIFC by including in its decision specific recommendations for the improvement of the IA system, together with follow-up measures.

⁶⁴⁰ The relevant data was not provided to SIGMA.

⁶⁴¹ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

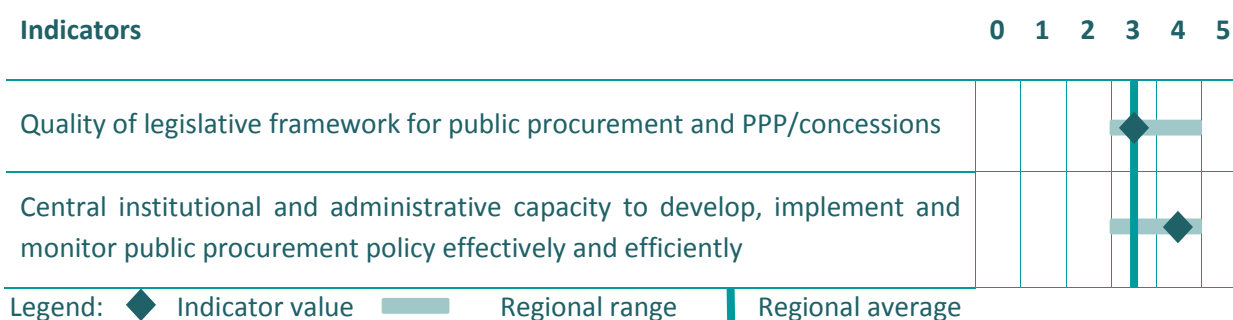
Medium-term (3-5 years)

- 7) The CHU should perform a functional review of the BPFs to determine which are required to have IA units established, including those which have organised the IA through an agreement with other BPFs.

Public procurement

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.

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

The PPL, adopted in 2012 and amended twice in 2015⁶⁴², covers both the classic⁶⁴³ and utilities sectors and regulates various aspects of the notification, tendering and award of public contracts. The PPL regulates the award of contracts both above and below the EU thresholds. All implementing by-laws foreseen in the PPL, covering the most important steps of procurement procedures, have been developed. The PPL, modelled on the 2004 EU Directives on public procurement, is largely aligned with the *acquis*. However, the provisions on utilities do not make use of all available flexible instruments envisaged in EU legislation, such as some of the exemptions applicable in the case of public undertakings, publication of the calls for competition in various forms, minimum time limits for submitting tenders or length of framework agreements.

The PPL defines the main policy goals of public procurement: efficiency and cost-effectiveness, competition, transparency, equality of bidders, environmental protection, and energy efficiency⁶⁴⁴. The rules on publication are well developed, and procedural options, such as occasional joint procurement, electronic auctions and dynamic purchasing systems, are regulated in the PPL. However, some major discrepancies persist. For instance, the PPL has no provisions defining the associations formed by one or several contracting authorities or bodies governed by public law as contracting authorities. No reference is made to the list of specific works related to one of the activities within the meaning of the EU Directives⁶⁴⁵, and the definition of "work" is also missing. Some exclusions go beyond the exclusions permitted in the EU Directives, such as the application of domestic preferences, exemption of contracts for the performance of intellectual work in the areas of science or education, exemption for

⁶⁴² Official Gazette Nos. 14/2015 and 68/2015.

⁶⁴³ Procurements covered by Directive 2014/24/EU.

⁶⁴⁴ PPL, Articles 9-13.

⁶⁴⁵ Annex II of Directive 2014/24/EU and Annex I of Directive 2014/25/EU.

goods and services that a contracting authority purchases for resale, and exemption of contracts for the purpose of ensuring basic living conditions in the event of a natural disaster or technical/technological accident. Only cases of extreme urgency, however, should be covered by the negotiated procedure without prior publication. In the case of the restricted procedure, all interested persons may submit bids, but no limitation on the number of candidates is provided for in the PPL. With regard to the negotiated procedure without prior publication of a call for competition, the definition of an “adequate/inadequate bid”⁶⁴⁶ is inconsistent with the EU Directives.

Despite the fact that the PPL was amended in 2015 and that the current legal framework provides the proper conditions for ensuring transparency in public procurement, the introduction of the 2014 EU Directives increased the number of discrepancies with the *acquis*. For instance, the innovation partnership procedure is not provided in the PPL, not all of the new mandatory exclusion grounds are clearly provided in the legislation, only a few vague provisions regulate life-cycle costing, and special provisions to facilitate the participation of small and medium-sized enterprises (SMEs) in public procurement are not properly reflected in the national legislation. Some inconsistencies have also been noticed in the use of the light regime⁶⁴⁷ for social and other specific services. The development of new legislation based on the 2014 EU Directives is scheduled for 2017 in the Action Plan 2017⁶⁴⁸ for the implementation of the Strategy. The respective working group has been established, and its first meeting was held on 21 March 2017. Comprehensive legal gap analyses were prepared for Directives 2014/24/EU and 2014/25/EU. However, *ex post* impact assessment of the current legislation has not been conducted.

General rules on defence procurement are provided in a special chapter of the PPL⁶⁴⁹. The national rules cover to a large extent the provisions of the Directive 2009/81/EC (“Defence Directive”)⁶⁵⁰, but some improvements are still needed, such as a definition of a works contract and rules for determining the estimated value of service contracts that are regular in nature or are to be renewed within a given period. The negotiated procedure without prior publication is not aligned in all cases with the limited situations allowed by the Defence Directive. However, in the Regulation of Procedure in this area⁶⁵¹, a specific case for the use of this procedure has been added (in relation to bidders that are manufacturers, service providers, or contractors of importance to the country’s defence and security). This provision is not included in the special chapter of the PPL on defence procurement.

Concessions and PPPs are subject to a separate PPP Law⁶⁵². Implementing secondary legislation is in force. The main principles and rules are well reflected in the national legislation, the list of exclusions does not extend beyond the exclusions permitted by EU rules, and competitive procedures for the award of concession contracts are provided in the PPP Law. However, the new Directive 2014/23/EU on concessions inherently amplifies some gaps.

Overall, the value for the indicator ‘Quality of the legislative framework for public procurement and PPPs/concessions’ is 3.

⁶⁴⁶ This definition is found in the PPL in Article 3, paragraph 1, point 32 and in Article 36, paragraph 1, point 1.

⁶⁴⁷ Directive 2014/24/EU, Articles 75-76, and Directive 2014/25/EU, Articles 91-93.

⁶⁴⁸ See the section on “Improving the Regulatory Framework”, Activity 3.

⁶⁴⁹ PPL, Chapter V.

⁶⁵⁰ 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.

⁶⁵¹ Regulation of Procedure for Public Procurement in Defence and Security, Article 11, Point 1, Paragraph 1.

⁶⁵² Official Gazette No. 88/2011, with amendments.

Quality of legislative framework for public procurement and PPP/concessions						
This indicator measures the quality of the legislative framework for public procurement and public-private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of SMEs in public procurement are assessed, as well as whether practical measures are taken to allow for proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds	
1. Level of alignment of public procurement legislation with the EU Directives	2/6
2. Scope of public procurement legislation	1/6
3. Public procurement procedures	1/4
4. Publication and transparency	5/5
5. Choice of participants and award of contracts	3/5
6. Availability of procedural options	3/4
Public procurement procedures below EU thresholds	
7. Advertising of public procurement procedures	2/3
8. Contract award procedures	6/7
Opportunities for participation of SMEs in public procurement	
9. Opportunities for participation of SMEs in public procurement	3/5
Availability of measures for the practical application of the legislative framework	
10. Availability of measures for the practical application of the legislative framework	4/5
Quality of legislation concerning PPPs/concessions	
11. Coverage of legislation on PPPs/concessions	2/2
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions	6/8
Total⁶⁵³	38/60

The legal framework for public procurement (including concessions and PPPs) is, for the most part, harmonised with the *acquis*. It provides the proper conditions for ensuring transparency and increasing value for money in public procurement. However, a few major inconsistencies persist, and the 2014 EU Directives have inherently increased the number of discrepancies, in particular with regard to technical details.

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

The PPO performs almost all of the functions⁶⁵⁴ of the central administrative body responsible for public procurement. It is accountable directly to the Government. The PPO monitors the application of the PPL, controls the use of specific procedures, manages the PP Portal, prepares reports on public procurement procedures, proposes measures aimed at improving the public procurement system, and

⁶⁵³ Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-60=5.

⁶⁵⁴ These functions are presented in OECD (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 98, <http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf>.

provides professional assistance to contracting authorities and bidders. The MoF is officially in charge of the submission to the Government of the proposals for changes in the primary legislation, but the PPO is the main actor involved in the elaboration of legislative drafts. The latest amendments to the PPL have partially reduced the PPO's tasks related to the approval of various procurement activities with no real impact on the public procurement system (such as the opinion on joint conduct of procurement procedures by multiple contracting authorities)⁶⁵⁵. However, the PPO's need for additional human resources remains, as five staff members have left the institution in recent months, leaving the PPO with a staff of 23. The possibilities for filling the vacant positions are limited in the near future because of a temporary government measure that prohibits appointments to vacant positions in the public administration.

In the area of concessions and PPPs, the distribution of responsibilities between central institutions was unclear until late June 2017. According to the Law on Ministries⁶⁵⁶, the Ministry of Trade, Tourism and Telecommunications (MTTT) was in charge of duties related to concessions and PPPs but, in practice, the Ministry did not perform those tasks. The Ministry of Economy (MoE) played the most important role within the PPP Commission, as a representative of the Minister serves as its President. A recent change in the Law on Ministries⁶⁵⁷ vested the MoE with competence for preparing, proposing and implementing regulations and measures in the field of concessions and PPPs. The Commission is an interdepartmental public body, with nine members (including its President and Vice-President), who are representatives of various ministers, the autonomous provinces and the City of Belgrade. The Commission has no permanent administrative structure. Its impermanent way of working and lack of necessary resources (only one person works full-time) obstructs the performance of its activities. Furthermore, the Commission has no capacity to deal with large projects of national importance. Some important functions are not performed at all, such as monitoring and control, professionalisation and capacity strengthening, or they are performed insufficiently, such as the functions of advisory and operational support, publication and information.

The Public Procurement Development Strategy 2014-2018⁶⁵⁸ covers all aspects of public procurement (including concessions and PPPs) that are important for the policy framework (including capacity building, green procurement, social procurement, and innovations). The Annual Action Plans accompanying the Strategy have been prepared since 2015⁶⁵⁹. The Action Plans, published on the PPO website, define the activities, responsible institutions, time periods for implementation, sources of financing (although only general indications, and only as from 2016), and performance indicators. The PPO has submitted reports to the Government on the implementation of the annual Action Plans. However, these implementation reports have not been published⁶⁶⁰. Some of the actions provided for 2016 have still not been implemented, such as the scheduled number of training activities. The same lack of results has been apparent in the last three years with regard to misdemeanour proceedings for violation of the PPL provisions. The PPO has submitted requests to initiate misdemeanour proceedings

⁶⁵⁵ This measure was recommended in the 2015 Baseline Measurement Report.

⁶⁵⁶ Official Gazette No. 44/2014.

⁶⁵⁷ Official Gazette No. 62/2017 of 27 June 2017.

⁶⁵⁸ Public Procurement Development Strategy of the Republic of Serbia 2014-2018, <http://www.ujn.gov.rs/en/news/story/269/PUBLIC+PROCUREMENT+DEVELOPMENT+STRATEGY+OF+THE+REPUBLIC+OF+SERBIA.html>.

⁶⁵⁹ The most recent one is the Action Plan for Implementation of the Public Procurement Development Strategy for 2017, Government Decision 05 No. 404-12569/2016, adopted on 29 December 2016, <http://www.ujn.gov.rs/ci/news/story/340/%D0%90%D0%BA%D1%86%D0%B8%D0%BE%D0%BD%D0%B8+%D0%BF%D0%BB%D0%B0%D0%BD+%D0%B7%D0%B0+%D1%81%D0%BF%D1%80%D0%BE%D0%B2%D0%BE%D1%92%D0%B5%D1%9A%D0%B5+%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D0%B8%D1%98%D0%B5+%D1%80%D0%B0%D0%B7%D0%B2%D0%BE%D1%98%D0%B0+%D1%98%D0%B0%D0%B2%D0%BD%D0%B8%D1%85+%D0%BD%D0%B0%D0%B1%D0%B0%D0%B2%D0%BA%D0%B8+%D1%83+%D0%A0%D0%B5%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D1%86%D0%B8+%D0%A1%D1%80%D0%B1%D0%B8%D1%98%D0%B8+%D0%B7%D0%B0+2017.+%D0%B3%D0%BE%D0%B4%D0%B8%D0%BD%D1%83.html>.

⁶⁶⁰ The PPO shared the implementation reports with SIGMA during the fact-finding mission.

(eight cases in 2016⁶⁶¹), but as a result of the inconsistency between the PPL and the Misdemeanour Law of 2014, it is impossible in practice for the RCPRPP to carry out misdemeanour proceedings. Therefore, the misdemeanour system is not functioning.

The PPO uses a data system for the collection and dissemination of documents related to the public procurement process. Annual and periodic reports are prepared and published on the PP Portal. However, no data is available on the award or completion of contracts in the fields of defence and security or on the number of works and services concessions. The data system needs to be improved⁶⁶². Information is freely available to the public, without requiring any specific registration. The PP Portal allows for the retrieval of information, but the open-data version does not contain all of the information on the contracts that is available through a search for an individual contract⁶⁶³.

Overall, the value for the indicator 'Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently' is 4.

⁶⁶¹ The eight cases concerning the initiation of misdemeanour proceedings were discussed in the PPO's Activity Report for 2016.

⁶⁶² Representatives of the PPO indicated this requirement in an interview with SIGMA.

⁶⁶³ These findings are based on an analysis of the Serbian version of the PP Portal.

Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently

This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies are open and transparent.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
Quality of the policy framework for public procurement	
1. Quality of the strategy for development of public procurement and PPPs/concessions	4/5
2. Quality of the operational action plan	4/5
3. Implementation of the strategy and the action plan	4/5
4. Monitoring of strategy implementation	4/5
Capability of central procurement institutions and their performance	
5. Adequacy of the legal framework to ensure capable institutions	8/10
6. Clarity in definition and distribution of central procurement functions in the legislation	8/10
7. Performance of the institutions involved, their capacity and resources	13/20
Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement	
8. Presence and quality of monitoring and data collection	4/10
9. Accessibility of public procurement data	6/10
Total⁶⁶⁴	55/80

The institutional set-up provides the basic elements required for a functional public procurement system. However, the functions related to PPPs are not clearly allocated, and the PPP Commission lacks the necessary resources and is operating without permanent staff. The Public Procurement Development Strategy 2014-2018 serves as a proper strategic framework for longer-term development of the procurement system.

Key recommendations

Short-term (1-2 years)

- 1) The Government should abolish any preference system for domestic bidders and for goods of domestic origin.
- 2) The PPO should ensure that secondary legislation and complementary regulations are prepared and issued no later than the entry into force of the new PPL.
- 3) The PPO should ensure appropriate and full public consultation, including the participation of representatives of economic operators and non-governmental organisations in the public consultation process for the new legislation.

⁶⁶⁴ Point conversion ranges: 0-12=0, 13-25=1, 26-39=2, 40-53=3, 54-67=4, 68-80=5.

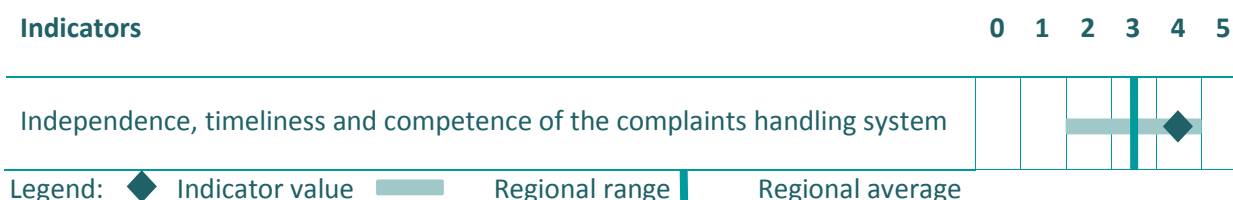
- 4) The PPO should prepare a new strategy for the development of the public procurement system 2019-2022, reflecting all aspects that are important for the policy framework in public procurement and PPPs/concessions in the coming period and serving as a proper strategic framework to manage the challenges of the EU accession process.
- 5) The Government should clarify and redefine within legislation the central functions and duties in the area of concessions and PPPs.

Medium-term (3-5 years)

- 6) The Government should ensure the sustainability of the future coherent, single framework for PPPs and concessions so that it fully serves its purposes.
- 7) The Government should allocate sufficient resources for strengthening institutional capacity and ensuring the continuous performance of all institutions involved in public procurement and concessions at the central level.
- 8) The MoF should harmonise the procurement regulations with the budget and expenditure regulations to enable the launching of procurement procedures that are adapted to the needs of contracting authorities.
- 9) The PPO should modernise and expand the e-procurement system so that increased data processing and analysis lead to the creation of a comprehensive system of monitoring.

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

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

Chapter VIII of the PPL is dedicated to the protection of rights in public procurement procedures. Legal protection in the case of PPP/concessions award procedures is also ensured⁶⁶⁵. The scope of the review and remedies system, time limits for challenging decisions, the standstill period⁶⁶⁶, effects of filing a complaint, and the mechanism for ensuring the ineffectiveness of the contracts are to a large extent in line with the requirements of the Directive 2007/66/EC⁶⁶⁷. A vulnerability of the legal framework can

⁶⁶⁵ Law on Public-Private Partnership and Concession ("PPP Law"), Article 58.

⁶⁶⁶ Contracting authorities are required to wait a certain number of days (a standstill period) between the contract award decision and the conclusion of the contract with the successful tenderer.

⁶⁶⁷ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007, amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts.

be observed in the case of alternative penalties for major infringements of the PPL⁶⁶⁸, where the level cannot be considered to be proportionate and dissuasive, as provided in Directive 2007/66/EC⁶⁶⁹. Moreover, the new rule, introduced by the 2015 amendments to the PPL⁶⁷⁰, which obliges the RCPRPP to reject a request for the protection of rights where it determines that the request does not contain all of the data/information required according to the PPL (but without giving to economic operators the possibility of correcting such errors/omissions) affects, to some extent, the right to challenge the decisions of contracting authorities.

The RCPRPP is the first-instance review body in Serbia for both public procurement and PPP/concessions procedures. It is an autonomous institution and is accountable only to the National Assembly. The PPL prescribes the current statute, responsibilities and composition of this institution, which in general terms complies with EU requirements. The RCPRPP consists of the President and eight members elected for a term of five years; the same person may not be appointed more than twice. The President and the members can be appointed and removed only by the National Assembly in the cases specified by the PPL. The RCPRPP makes final decisions in panels comprised of three members. Currently 55 staff support the work of the members. The legal advisers have a thorough knowledge of public procurement issues, and some have previous court experience, which is helpful in their current work. To date, no integrity issues have been reported. The work is organised in such a way that the entry and processing of data in the case files are standardised and performed by means of specialised software for the automated management of case files. Case-file record keeping is carried out both manually and through computer software. The members and advisers view the internal database as a very useful tool, which they often consult in practice⁶⁷¹. Some barriers to efficient and effective work remain. Oral hearings and the use of external experts are provided for in legislation but are almost never used in practice⁶⁷².

A mandatory model form for complaints is not imposed by the PPL, but any complainant is required to provide minimal information. The PCPRPP website provides clear guidance and relevant information about formal requirements for lodging complaints, such as fees, attachments etc. However, complaints cannot be lodged electronically and outside of the working hours.

The decisions of the RCPRPP can be challenged before the Administrative Court, but only by the economic operators. Due to the interpretation by the Administrative Court of the rules on administrative procedures, the contracting authorities are not allowed to challenge the decisions of the RCPRPP. This interpretation denies the access to justice of contracting authorities.

Between 2012 and 2015, the RCPRPP faced a steady increase in the number of requests submitted for the protection of rights, but contrary to this trend, the number of complaints submitted to the RCPRPP was much lower in 2016⁶⁷³. This downward trend seems to be the direct effect of the 2015 amendments to the PPL, which increased the level of the RCPRPPs fees and introduced the requirement for economic operators submitting a complaint to prove the legal interests involved. Despite these changes, in most cases the RCPRPP exceeded the maximum legal processing time⁶⁷⁴. All of the decisions issued are available on the official RCPRPP website (as well as on the PP Portal

⁶⁶⁸ *Ibid.*, Article 2d.

⁶⁶⁹ Article 162 of the PPL provides for the imposition of a fine on the contracting authority of approximately EUR 650 to EUR 8 100 for a major infringement of the PPL. Such a fine is low and does not correlate with the value of the contract.

⁶⁷⁰ PPL, Article 154, Paragraph 2.

⁶⁷¹ This information was provided in the course of interviews with the members and legal advisers of the RCPRPP.

⁶⁷² Information shared by the RCPRPP.

⁶⁷³ There were 2 300 complaints in 2015 and 1 388 in 2016 (for both years, the figures reflect only requests for the protection of rights, appeals against the conclusion of the contracting authority, and requests to make a statement on the continuation of the procurement procedure). In 2016, the RCPRPP issued 1 604 various decisions.

⁶⁷⁴ The average processing time for a complaint was 49 days in 2015 and 64 days in 2016.

managed by the PPO)⁶⁷⁵, but delays in their publication have occurred in some cases. Relevant practices, the principle legal positions of the institution, and the formal requirements for lodging a request for the protection of rights can also be found on the website. The RCPRPP delivers the annual report on its activity to the National Assembly, and this report is also published on the official website⁶⁷⁶. During the assessment period, the RCPRPP met the deadline established by the PPL for submitting its annual report to the National Assembly. The rules and practice for publishing the Administrative Court's decisions differ significantly.

An analysis of a sample of the RCPRPP's decisions⁶⁷⁷ indicates that the decisions are based on the applicable law(s) and reflect the principles of transparency, competition and equal treatment. Included in these decisions are the resolution of complaints and sanctions in relation to legal provisions. Last year, the RCPRPP declared complaints inadmissible on the grounds of procedural errors in only 141 cases (8.79%).

Overall, the value for the indicator 'Independence, timeliness and competence of the complaints handling system' is 4.

⁶⁷⁵ www.kjn.gov.rs.

⁶⁷⁶ *Ibid.*

⁶⁷⁷ The RCPRPP provided SIGMA with the sample of the decisions in accordance with the OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>.

Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with the EU Directives. Then, sub-indicators measure the strength of the institutional set-up for handling complaints. Next, the actual performance of the review system is measured using a combination of qualitative and quantitative indicators. Finally, the performance of the remedies system for PPP/concessions is evaluated.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
The legislation sets out the mechanisms for handling complaints in compliance with EU Directives	
1. Right to challenge public procurement decisions	5/5
2. Time limit for challenging decisions taken by contracting authorities/entities	2/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties	2/3
4. Mechanisms to ensure implementation of the review body's resolutions	2/2
5. Right to challenge decisions of the review body	0/3
The institutional set-up for handling complaints	
6. Legal provisions establishing the review body ensure independence of the institution and its members	7/7
7. Adequacy of the organisational set-up and procedures of the review body	3/4
8. Public availability and timeliness of data on the review system	3/4
Performance of the review system	
9. Fairness of fee rates for initiating review procedures	1/3
10. Actual processing time of complaints	1/3
11. Complaint submission in practice	0/4
12. Quality of decision making by the review body	4/4
13. Cases changed or returned after verification by the court (%)	1/2
Performance of the remedies system in PPPs/concessions	
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures	5/5
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members	5/5
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions	5/5
Total⁶⁷⁸	46/61

A proper regulatory framework and an institutional set-up for handling complaints are in place. The remedies system covers the classic and utilities sectors, as well as concessions/PPPs. The RCPRPP is a solid institution but faces a large number of complaints and significant delays have occurred in practice, in both first and second instances.

Key recommendations

Short-term (1-2 years)

⁶⁷⁸ Point conversion ranges: 0-8=0, 9-19=1, 20-30=2, 31-41=3, 42-52=4, 53-61=5.

- 1) In the process of preparing new legislation on public procurement, the Government should ensure its full alignment with Directive 2007/66/EC and with complementary rules provided in Directive 2014/23/EU.
- 2) The RCPRPP should finalise and implement the measures set out in the Action Plan so as to ensure the timeliness of complaint processing.
- 3) The Government should ensure that contracting authorities have access to judicial review of RCPRPP decisions.

Medium-term (3-5 years)

- 4) The RCPRPP and the Administrative Court (second instance in the review system) should publish the Court's judgements.

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.

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

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

Under the PPL, contracting authorities are required to adopt an annual procurement plan and to publish it (together with its modifications) on the PP Portal⁶⁷⁹. Contracting authorities usually observe this legal obligation, although 10% of the public invitations announced on the PP Portal have not been published in any procurement plan⁶⁸⁰. Only the procurement procedures that were envisaged in the plan and for which funds have been allocated may be initiated by contracting authorities. Calls for participation may not be issued before the budgets for the corresponding contracts have been adopted. Preliminary market consultations, as defined in the 2014 Directives, are not provided for in the legislation, and contracting authorities do not carry out such consultations in practice, although they could choose to do so.

The public procurement share of GDP amounted to 7.98% in 2016, down from 8.93% in 2015. These proportions are about the average level for the past 14 years⁶⁸¹. In 2016, the contracting authorities

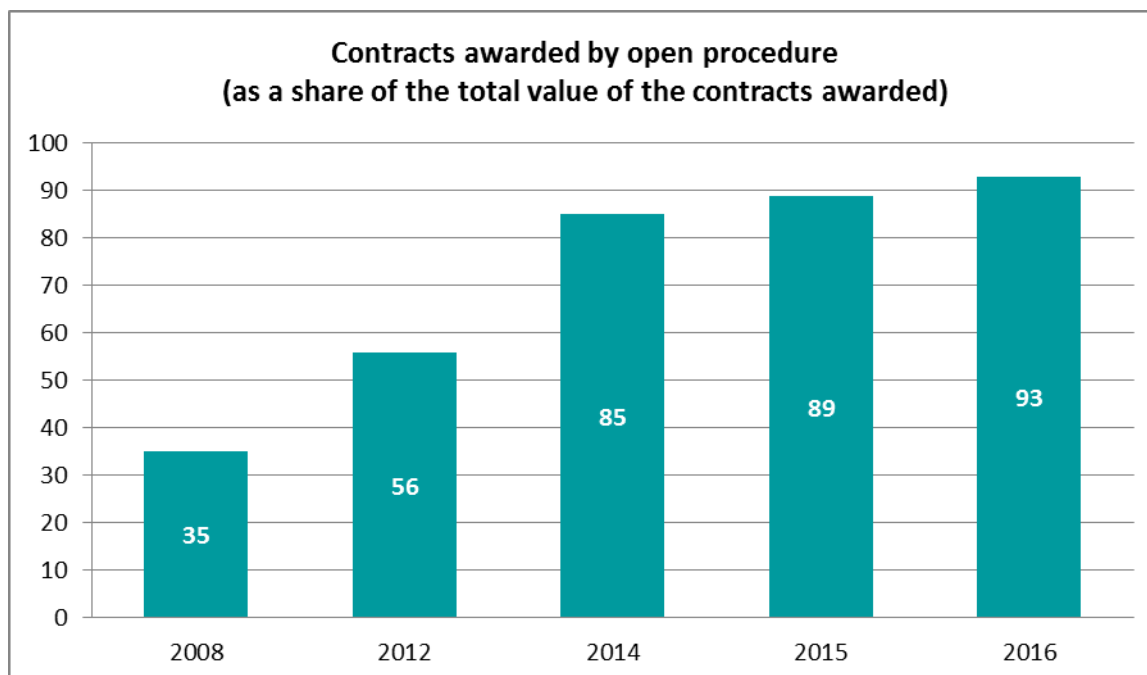
⁶⁷⁹ PPL, Article 51.

⁶⁸⁰ PPO statistics.

⁶⁸¹ PPO (2017), *Annual Report 2016*, Belgrade.

initiated a total of 62 225 competitive procedures for contracts with a value above the national thresholds⁶⁸² (with the open procedure used in 93% of cases).

Figure 4. Contracts awarded by open procedure (as a share of the total value of contracts awarded)



Source: Public Procurement Office, Annual Report 2016

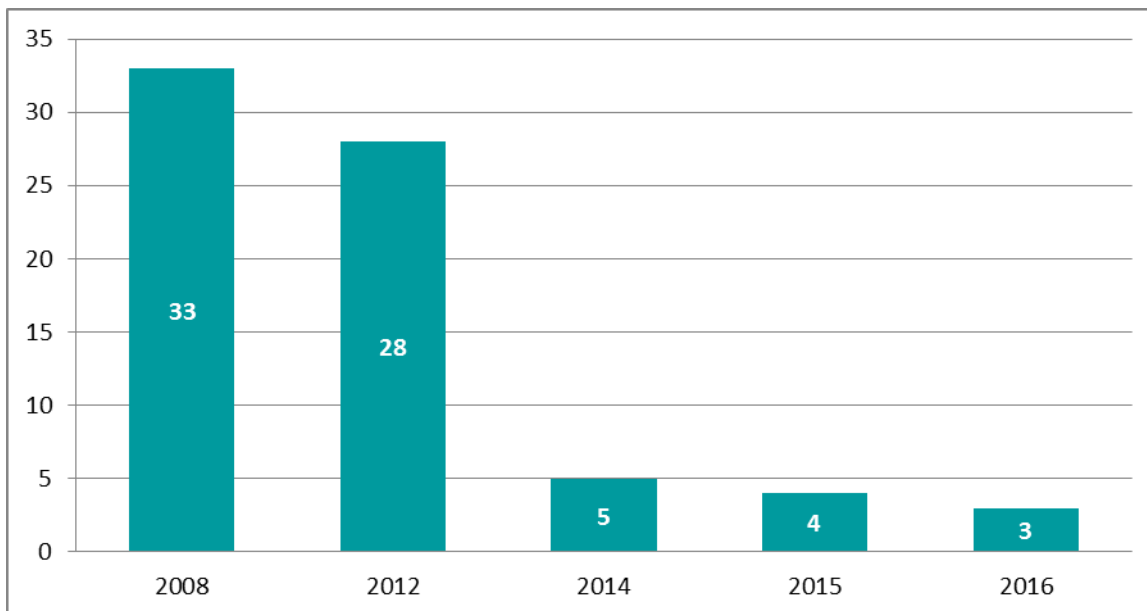
Another 40 115 competitive procedures were organised for low-value contracts, representing 10% of the total value of those contracts⁶⁸³.

⁶⁸² RSD 5 million (approximately EUR 40 368) for works contracts and RSD 500 000 (approximately EUR 4 037) for services and supplies contracts.

⁶⁸³ In 2016, a total of 104 370 contracts were concluded, for a total value of RSD 335.3 million (approximately EUR 2.7 million). In 2016, the number of contracting authorities was 4 462.

The share of negotiated procedures without prior publication of a notice is currently low (slightly over 3%).

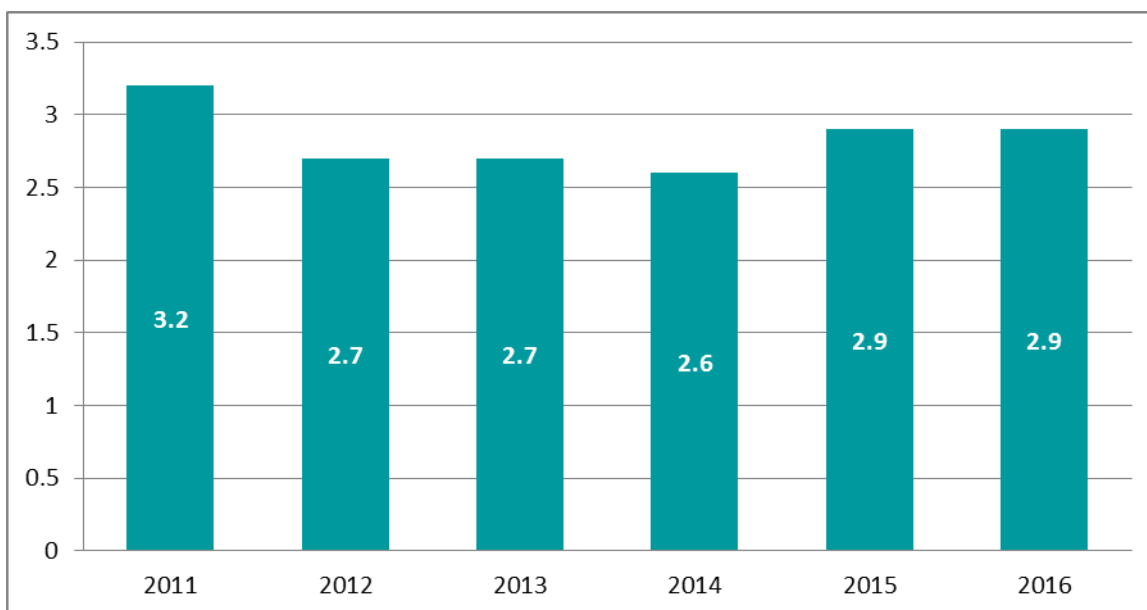
Figure 5. Contracts awarded without prior publication of a notice (as a % share of the total value of contracts awarded)



Source: Public Procurement Office, Annual Report 2016

All procurement notices and tender documents must be published on the PP Portal, including those for low-value contracts. Despite the extensive publication rules and the preference for open competition procedures, in practice the public procurement market does not seem to be very attractive to the business sector. The average number of tenders submitted for each competitive procedure is only 2.9, and only one tender was submitted in more than 42% of the procedures.

Figure 6. The average number of tenders per competitive procedure



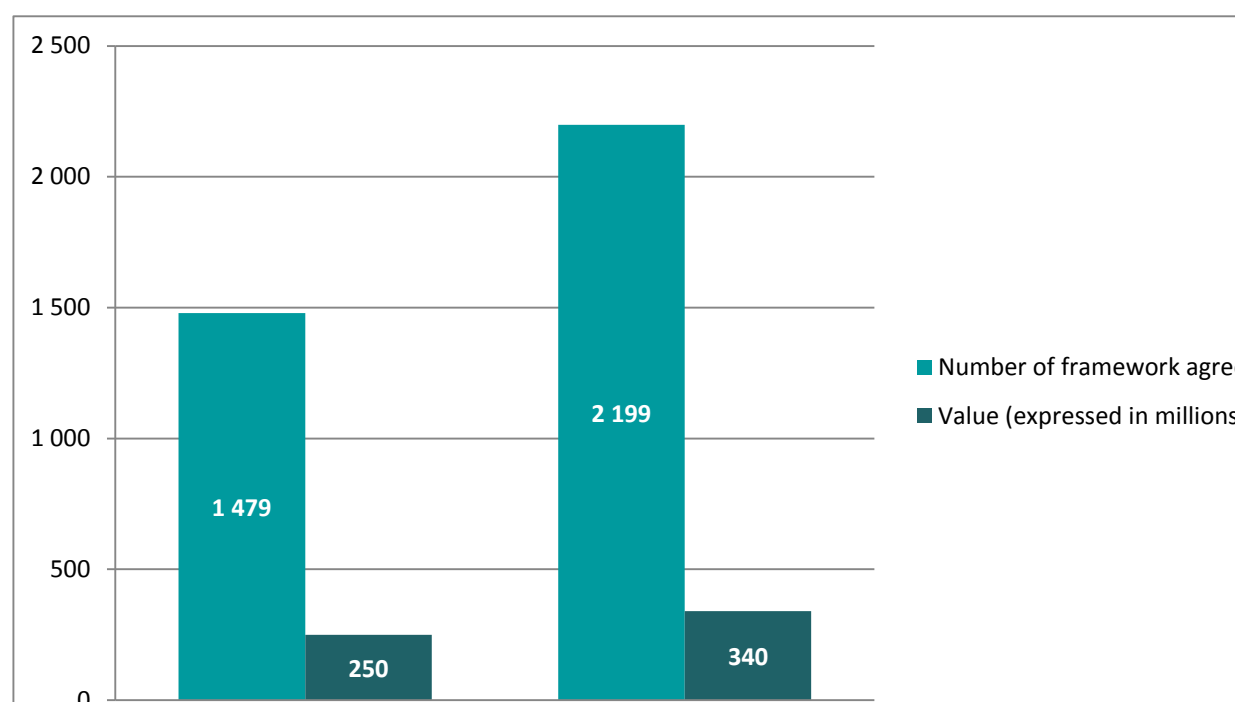
Source: Public Procurement Office, Annual Report 2016

For more than 87% of procedures, contracting authorities awarded the contracts based on the lowest-price criterion only. The most economically advantageous tender criterion is hardly ever used, although the PPL contains no limitations or restrictions on its use.

In 2016, a total of 2 199 framework agreements were concluded, for a total value of RSD 42.7 billion (approximately EUR 340 million)⁶⁸⁴, which reflects the great interest of contracting authorities in this approach and their recognition of its advantages.

⁶⁸⁴ PPO statistics.

Figure 7. The number and value of framework agreements



Source: Public Procurement Office, Annual Report 2016

Framework agreements are often used for centralised purchasing. The Administration for Joint Services of Republic Bodies plays the role of a centralised purchasing body for government bodies and organisations, including judicial authorities. The Republic Fund for Health Insurance is a centralised purchasing body for the purchase of medications required by health institutions.

In relation to e-procurement, the functions of e-noticing and e-tender documentation are in place. The e-submission of tenders is rarely accepted by contracting authorities⁶⁸⁵. The PPL includes provisions for e-auctions and dynamic purchasing systems, but to date no contracting authority has made use of these e-tools.

The PPL contains specific provisions regulating the prohibition to increase a contract value by more than 5% of its initial value, but only where this prohibition is clearly and precisely defined in the tender documents⁶⁸⁶. Almost 2 000 notices were published in 2016 relating to the amendment of the contracts. In practice, not all of the modifications are made visible. The time frame is often exceeded, and the quality is not always in accordance with the commitments that were assumed⁶⁸⁷. Particularly at the local level, the SAI has identified such irregularities (for example, the execution of expenditure without any legal basis or without valid accounting records, and changes or inadequate implementation of the contracts).

In the context of the review of commitments and execution of expenditures, the SAI's reports include a chapter on public procurement. In 2015, the audit covered procurement for an amount of RSD 52 billion (approximately EUR 419.8 million) and identified irregularities amounting to RSD 14.5 billion (approximately EUR 117 million), which constituted 27.9% of the revised value of the public procurement. The largest number of irregularities was found to be in connection with the tender documents (20%) and the conclusion of contracts without any procurement procedure (17%).

⁶⁸⁵ Information collected during interviews with the PPO and with representatives of contracting authorities.

⁶⁸⁶ PPL, Article 115.

⁶⁸⁷ SAI, *Report on Activities*, 2015.

The *ex post* evaluation of the procurement process and of contract performance is not carried out systematically⁶⁸⁸.

In accordance with the provisions of the Anti-Corruption Agency Law⁶⁸⁹ and the *Guidelines for Creation and Execution of Integration Plans* prepared by the PPO, public authorities and organisations are required to adopt integrity plans indicating the measures and activities envisaged to mitigate the risks of corruption, conflicts of interest and other ethically and professionally unacceptable behaviour. The development of an institution's new integrity plan is required every third year following the previously adopted integrity plan. In the PPL, special provisions focusing on the prevention of corruption and conflicts of interest specify the obligation to elaborate internal plans for combating corruption in public procurement. The PPO developed a template for an internal plan, but in practice many contracting authorities only copied the template, without adapting it to their own specificities⁶⁹⁰. Moreover, the results of the monitoring of the integrity plans of 25 institutions, performed by the Anti-Corruption Agency in 2015, showed that 47% of the measures in the field of public procurement had not been implemented⁶⁹¹.

Overall, the value for the indicator 'Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations' is 3.

⁶⁸⁸ Information collected during interviews with the PPO, the SAI and with representatives of contracting authorities.

⁶⁸⁹ Official Gazette Nos. 97/08, 53/10 and 66/11.

⁶⁹⁰ Information collected during interview with the PPO.

⁶⁹¹ <http://www.acas.rs/plan-integriteta/>.

Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations

This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.

Overall indicator value 0 1 2 **3** 4 5

Sub-indicators	Points
Planning and preparation of the public procurement procedure	
1. Due attention is given to the planning process	1/5
2. Presence and use of cost estimation methods and budgeting	1/2
3. Perceived quality of tender documentation by contracting authorities and economic operators (%)	3/4
Competitiveness and transparency of conducted procedures	
4. Perceived fairness of procedures by businesses (%)	3/4
5. Contracts awarded by competitive procedures (%)	5/5
6. Contracts awarded based on acquisition price only (%)	1/5
7. Average number of tenders submitted per competitive procedure	1/3
8. Contracts awarded when one tenderer submitted a tender (%)	0/2
Use of modern procurement methods	
9. Adequacy of regulatory framework for and use of framework agreements	4/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing	5/5
11. Penetration of e-procurement within the procurement system	3/5
Contract management and performance monitoring	
12. Presence of mechanisms requiring and enabling contract management	2/6
13. Contracts amended after award (%)	4/4
14. Extent of <i>ex post</i> evaluation of the procurement process and of contract performance	0/6
Risk management for preserving the integrity of the public procurement system	
15. Existence of basic integrity tools	4/4
Total⁶⁹²	37/65

Electronic publication is mandatory for all types of notices and tender documents, as well as for procurement plans and modifications of the initial value of contracts. In 2016, the share of negotiated procedures without prior publication remained low. While legal provisions are foreseen, e-auctions and dynamic purchasing systems have not been used so far. Framework contracts are used more and more often. *Ex post* evaluation of the procurement process and of contract performance is not carried out systematically. The regulatory framework for integrity provided in the PPL constitutes a good basis for efforts to reduce corruption in public procurement, but the key challenge in strengthening integrity in public procurement remains the implementation of the regulatory framework.

⁶⁹² Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 35-45=3, 46-56=4, 57-65=5.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

According to the PPL, among other tasks, the PPO is responsible for providing advisory support to contracting authorities⁶⁹³ and economic operators, developing public procurement guidelines and tools, and preparing methods and programmes for professional training. Practical guidelines, model documents and standard forms are available on the PP Portal⁶⁹⁴. In general, these guidelines are sufficiently detailed, but with only a few practical examples. They do not discuss the specificities of procurement for key sectors and do not cover in depth all stages of the procurement process. Standard forms are provided for all types of notices, model tender documents and model internal acts for the open, restricted and negotiation procedures. All of these materials are appreciated by the end-users⁶⁹⁵.

According to the PPL⁶⁹⁶, a contracting authority with an overall annual value of public procurement exceeding RSD 25 million (approximately EUR 202 110) is obliged to employ at least one public procurement officer who has been trained to perform public procurement tasks. The PPO determines the method and the programme for the professional training and examination of public procurement officers. In 2016, the PPO organised 20 examination sessions, and 380 candidates thereby acquired the certification. Since October 2014, when the second cycle of certification was launched, 1 478 participants have obtained the public procurement certificate out of a total of 2 500⁶⁹⁷. The PPO also organises annually several training programmes for other persons involved in the procurement process. However, public procurement training for both contracting authorities and economic operators is mainly provided by the private sector and other organisations (such as chambers of commerce), with speakers from the PPO often involved in this training.

The PPO gives legal consultations every workday (at the rate of 20-25 consultations per day⁶⁹⁸) on a dedicated phone line, the number of which is visible on the first page of the PPO website. Contracting authorities and economic operators may also send written requests for opinions on the interpretation of legal provisions. In 2016, the PPO issued 418 such opinions⁶⁹⁹. A collection of solutions to the most common practical problems faced by practitioners has been published and updated on the website⁷⁰⁰.

Co-operation between various institutions appears to be functional. The Memorandum of Co-operation, signed by the MoF, the PPO, the RCPRPP, the SAI, the Anti-Corruption Agency, the Commission for the Protection of Competition and the MoE, ensures, to a reasonable extent, the co-ordination of opinions on specific issues involved in the application of the PPL. Regular co-ordination meetings are organised with the participation of all concerned institutions.

In 2016, contracting authorities cancelled 6 050 procurement procedures, representing almost 10% of the total number of procedures.

Overall, the value for the indicator 'Availability and quality of support to contracting authorities and economic operators to strengthen the professionalisation of procurement operations' is 4.

⁶⁹³ According to statistics provided by the PPO, the total number of contracting authorities is 4 462.

⁶⁹⁴ <http://ujn.gov.rs/ci/documents/models>; http://www.ujn.gov.rs/ci/documents/analiticka_dokumenta; <http://www.ujn.gov.rs/ci/sluzbenik/prirucnik.html>; <http://www.ujn.gov.rs/ci/aktivnosti/video>; <http://ujn.gov.rs/ci/documents/models>; <http://portal.ujn.gov.rs/PreuzimanjeDokumenata.aspx>.

⁶⁹⁵ This view was expressed by representatives of the contracting authorities and the business sector during interviews with SIGMA.

⁶⁹⁶ PPL, Article 134.

⁶⁹⁷ Statistics provided by the PPO.

⁶⁹⁸ Ditto.

⁶⁹⁹ Ditto.

⁷⁰⁰ <http://www.ujn.gov.rs/ci/documents/obiasnjenja>.

Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations

This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.

This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.

Overall indicator value 0 1 2 3 **4** 5

Sub-indicators	Points
Availability and quality of manuals, guidelines, standard tender documents and other operational tools	
1. Availability and quality of manuals and guidelines	2/5
2. Availability and quality of standard tender documents, standard forms and standard contract models	4/5
Availability and quality of training and advisory support	
3. Access to quality training for procurement staff	3/5
4. Availability of advice and support for contracting authorities and economic operators	4/5
Procurement procedures cancelled	
5. Procurement procedures cancelled (%)	4/5
Total⁷⁰¹	17/25

Key materials are available to assist contracting authorities in complying with procedural regulations, but they do not cover in depth all stages of the procurement process and more practical examples are needed. Training activities are available on the market (mainly from the private sector) for both contracting authorities and economic operators. The PPO gives advice and support on the interpretation of legal provisions and on certain practical matters. The number of procedures cancelled is low.

Key recommendations

Short-term (1-2 years)

- 1) The MoF and the PPO should clarify in the secondary legislation that requests for participation may be issued even before the adoption of the budgets for the corresponding contracts, without affecting the rules stipulating that contracts can be concluded only if sufficient funds are provided in the budget.
- 2) The PPO, with the support of the working group established for the development of the new PPL, should carry out a preliminary analysis of the causes for the low level of participation of economic operators in public procurement procedures.

⁷⁰¹ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-25=5.

- 3) The PPO should improve the current guidelines or prepare new guidelines, with a view to presenting more practical examples, focused in particular on the *ex post* evaluation of contract performance.
- 4) The PPO should ensure access to training for officials at the local level so as to increase their legal knowledge and improve their practical skills in the field of procurement.

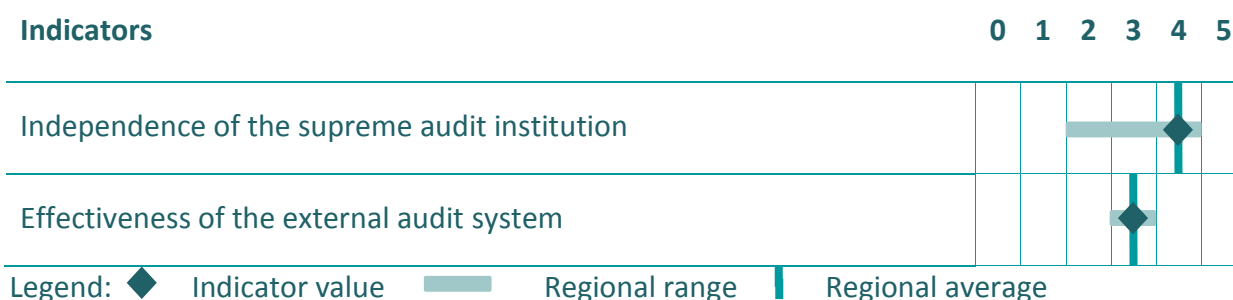
Medium-term (3-5 years)

- 5) The PPO should develop guidelines on the new approaches promoted by the 2014 EU Directives, such as life-cycle costing, green procurement and social aspects of procurement.
- 6) The PPO should expand the e-procurement system so that technical facilities for the use of e-tools (e-auctions, e-catalogues, dynamic purchasing systems) are available to contracting authorities and economic operators.
- 7) With the assistance of line ministries, the PPO should develop and implement sector-specialised operational tools (for example for IT services and supplies, health supplies, road construction or office supplies), including model tender documents, standard technical specifications, and methodologies for tender evaluation.
- 8) The PPO should prepare a comprehensive set of training materials to ensure the support required for the smooth implementation of the new legal provisions that are expected to enter into force in the near future.

External audit

Key requirement: The constitutional and legal frameworks guarantee 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.

The values of the indicators assessing Serbia's performance under this key requirement are displayed below in comparison with the regional average and the range of values for the same indicators in the Western Balkans. The range is formed by the values given to the lowest and highest performer for a given indicator.



Analysis of Principles

Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.

The Constitution⁷⁰² provides sufficient overall independence for the SAI. This independence is further reinforced in the SAI Law⁷⁰³, which stipulates that the SAI is the supreme state body for the audit of

⁷⁰² The Constitution of the Republic of Serbia, Article 96, Official Gazette No. 98/2006.

public funds in Serbia. The audit mandate⁷⁰⁴ is exhaustive, and the SAI is empowered to undertake financial, compliance and performance audits in accordance with national and international auditing standards⁷⁰⁵. All public financial operations are subject to audit by the SAI⁷⁰⁶. The SAI is empowered to submit reports to the National Assembly⁷⁰⁷ and to make them public. In 2016, the SAI submitted 184 reports to the National Assembly⁷⁰⁸, and these are published on the SAI's website⁷⁰⁹.

The SAI Law⁷¹⁰ provides independence for the SAI Council Members (including the Auditor General), and no members of the Council have been removed from office since the SAI was established. The terms of office of the SAI Council Members⁷¹¹ are relatively short, at five years, with the possibility of election by Parliament no more than twice. In addition, a motion of only 20 members of the Parliament is required to raise an initiative for their dismissal, although a parliamentary vote is also required for their exclusion from office.

In 2014, a complaint was made to the Constitutional Court concerning the requirements set out in the SAI Law⁷¹² for the completion of SAI audits. The complainant argued that there should be an opportunity to appeal the SAI Council's decision, which is made upon completion of the audit process. The Constitutional Court denied⁷¹³ the request on 1 December 2016, confirming that the Article in question is in line with the Constitution.

The SAI Law⁷¹⁴ requires that the funds of the SAI shall be provided from the state budget within a special budget line. During the budget process for 2016⁷¹⁵, the SAI submitted its proposed financial plan, totalling RSD 704 million (EUR 5.8 million) to the relevant parliamentary committee and to the MoF, which is responsible for preparing the draft budget law. The parliamentary committee did not, however, schedule a session at which it could adopt the financial plan, and the MoF reduced the funds requested by the SAI to RSD 614 million (EUR 5 million). The draft budget law proposed by the Government was adopted by the Parliament, and subsequently, the parliamentary committee gave its consent to the reduced funds earmarked for the SAI. In the event, owing to delays in recruiting staff for operational reasons, the SAI did not utilise all the funds available in the allocated budget for 2016, and the reduction in the SAI budget did not have an impact on its operations for the year.

The SAI has adopted a new strategic development plan⁷¹⁶ for 2016-2020, continuing with the activities of its previous plan for 2011-2015. The plan is published on the SAI's website. The SAI reviews and reports on progress to the Parliament through its Annual Activity Report.

Citizens of Serbia do not have much trust in the political independence of the SAI. Only 24% of the citizens who answered the 2017 Balkan Barometer survey totally agree or tend to agree that the SAI is independent of political influence.

⁷⁰³ Law on the State Audit Institution, November 2005 (Official Gazette No. 101/2005); Amending Law, May 2010, Official Gazette No. 36/2010.

⁷⁰⁴ SAI Law, Articles 9-11.

⁷⁰⁵ *Idem*, Article 34.

⁷⁰⁶ Constitution Article 92; SAI Law, Articles 10 and 11.

⁷⁰⁷ SAI Law, Articles 43-47 and 49.

⁷⁰⁸ SAI Annual Activity Report for 2016, March 2017.

⁷⁰⁹ <http://www.dri.rs/>.

⁷¹⁰ SAI Law, Articles 19-24.

⁷¹¹ *Idem*, Article 20.

⁷¹² *Idem*, Article 39.

⁷¹³ Constitutional Court Decision No. IUz-217/2013, 1 December 2016.

⁷¹⁴ SAI Law, Article 51.

⁷¹⁵ Information provided by the SAI.

⁷¹⁶ http://www.dri.rs/upload/documents/Opsti_dokumenti/Eng/DRI_Strateski_plan_2016-2020ENG.pdf.

As a result of the above, the value for the indicator 'Independence of the supreme audit institution' is 4.

Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Constitutional and legal independence of the SAI	4/4
2. Organisational and managerial independence of the SAI	5/5
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)	3/3
4. Access to information and premises	1/1
5. Perception of SAI independence by population (%)	0/3
Total⁷¹⁷	13/16

The independence, mandate and organisation of the SAI are established and protected by the Constitution and the Audit Law. The outcome of the complaint to the Constitutional Court shows that although the SAI is subject to external pressures, the protections provided by the constitutional and legal framework are robust. The international standards requiring financial independence for SAIs were compromised to some extent in 2016 by the reduction of the SAI's budget. This did not, however, adversely affect its operational activities in 2016.

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 SAI's mandate includes all institutions of the Republic of Serbia, autonomous territories, local government, MSIOs, public enterprises and other beneficiaries of public funds. The SAI, however, does not audit all institutions in its mandate every year, although the SAI Council adopts a risk-based approach for its annual audit planning process, in order to ensure that the SAI discharges its mandate as effectively as possible. The SAI also has the authority to audit both the National Bank and, since 2015, the political parties. In 2016, the SAI audited the financial statements for 2015 of four political parties.

In 2016, the SAI submitted 161 reports to the Parliament covering both financial audit and compliance audit opinions relating to the operations of public administrations for 2015. There were only 24 "unqualified" audit opinions with respect to financial audit and 13 "unqualified" compliance audit opinions⁷¹⁸. The SAI also submitted 2 performance audit reports and 21 follow-up reports⁷¹⁹ on responses that auditees gave to explain irregularities identified in previous SAI audits. All 184 SAI audit reports are published on the SAI's website⁷²⁰.

⁷¹⁷ Point conversion ranges: 0-2=0, 3-5=1, 6-8=13, 9-11=3, 12-14=4, 15-16=5.

⁷¹⁸ SAI statistics in Annual Activity Report.

⁷¹⁹ SAI RoP 2009, Official Gazette No. 9/2009.

⁷²⁰ <http://www.dri.rs/audit/latest-report/latest-report.199.html>.

Table 9. Audit reports submitted to the Parliament

	Unqualified audit opinion	Qualified audit opinion	Negative audit opinion	Disclaimer	Total
Financial audit	24	122	7	7	160
Compliance audit	13	137	9	2	161
Performance audit	Not applicable	Not applicable	Not applicable	Not applicable	2 ⁷²¹
Follow-up Reports	Not applicable	Not applicable	Not applicable	Not applicable	21 ⁷²²
					184 ⁷²³

Source: SAI statistics in Annual Activity Report for the year 2016.

In April 2015, the Auditor General formally adopted manuals covering financial, compliance and performance audits and quality control. Internal guidelines provide for audit work to be based on International Standards of Supreme Audit Institutions (ISSAIs), which were published in the Official Gazette in September 2015⁷²⁴. Rules of procedure (RoP)⁷²⁵ and internal guidance are also in place, based on international standards. The SAI has included the development of a quality-control system in its strategic development plan⁷²⁶ and established⁷²⁷ a department for audit methodology and quality control in February 2014. In 2017, for the first time, audits will be subject to quality-control review. The audit reports that have been examined show that the audit work undertaken meets international auditing standards.

While recognising national budgetary constraints, the SAI employed 286 staff at the end of 2016, of which 247 were audit staff⁷²⁸. This represents a significant increase over 2015, when the levels were 263 and 223, respectively. The SAI has provided significant development training for its staff in the past two years⁷²⁹.

The 2016 Annual Activity Report states that the SAI made 1 672 recommendations in its audit reports, and auditees took appropriate action on 1 264 of them. Auditees are in the process of implementing a further 317 recommendations, and 91 are not yet being implemented. This latter group relates mainly to cases that require amendments to laws or regulations.

Table 10. Recommendations in audit reports in 2016

Recommendations made by SAI	Measures taken by auditees	Recommendations in process of implementation	Recommendations not yet implemented
1 672	1 264	317	91

Source: SAI statistics in Annual Activity Report for the year 2016.

The SAI has decided to prioritise its recommendations, in line with the SAI Audit Methodology.

⁷²¹ Audit opinions or disclaimers are not part of performance audit reports.

⁷²² Audit opinions or disclaimers are not part of follow-up reports.

⁷²³ The financial audit reports are included in compliance audit reports, so the total number of reports is 184.

⁷²⁴ Official Gazette No. 77, 9 September 2015.

⁷²⁵ SAI RoP 2009, Official Gazette No. 9/2009.

⁷²⁶ Strategic Development Plan 2016-2020 (Objective 2.4).

⁷²⁷ SAI Council No. 112-2067/2016 of 28 March 2016.

⁷²⁸ SAI statistics, Annual Activity Report 2016.

⁷²⁹ SAI statistics, Data Collection Sheet.

The SAI must submit evidence relating to misdemeanours or criminal offences to the competent authority⁷³⁰. In 2015, the SAI submitted evidence of 230 charges (207 for misdemeanours, 9 for economic offences and 14 criminal offences), as well as 4 notes to the Prosecutor's Office. In 2016, the number increased to 316 charges (258 for misdemeanours, 17 for economic offences and 41 criminal offences), as well as 12 notes to the Prosecutor's Office⁷³¹. Each audit department has lawyers who are responsible for filing the reports for misdemeanours or criminal offences. However, the SAI legal staff may request further clarification from audit groups about the audit findings, and this work reduces the resources available for financial and performance audits.

In June 2015, the SAI and the Committee on Finance, State Budget and Control of Public Spending concluded an MoU⁷³² to establish the direction of future co-operation and continuously improve relations between the two institutions. A new subcommittee was set up to consider reports on completed audits and, in July 2016, it discussed the SAI Annual Activity Report for 2015. Although this report included details of the SAI's audit reports, the subcommittee did not specifically discuss individual audit reports. The main Committee adopted the SAI's activity report⁷³³ in September 2016. The Parliament does not undertake a formal discharge of the executive with respect to the financial results of the public administration organisations.

Asked if the SAI is an institution that effectively can scrutinise the Government and can make it accountable, 33% of the citizens of Serbia who answered the 2017 Balkan Barometer survey totally agree or tend to agree that the SAI is an effective institution. The values for other oversight bodies such as the Parliament (31%) and the Ombudsman (39%) are comparable with those for the SAI.

As a result of the detailed aspects noted above, the value for the indicator 'Effectiveness of the external audit system' is 3.

Effectiveness of the external audit system						
This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits. (e.g. through its manuals and quality assurance system).						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Coverage of mandate by external audit	3/6
2. Compliance of audit methodology with ISSAIs	6/6
3. Quality control and quality assurance of audits	3/6
4. Implementation of SAI recommendations	5/6
5. Use of SAI reports by the legislature	2/6
Total ⁷³⁴	19/30

The SAI has made significant efforts to apply standards in a neutral and objective manner and to ensure high-quality audits that have a positive impact on the functioning of the public sector. It has

⁷³⁰ SAI Law, Article 41.

⁷³¹ SAI statistics, Annual Activity Report 2016.

⁷³² MoU, National Assembly of Serbia, Document No. 02-1582/15.

⁷³³ National Assembly of Serbia, Fifth Session of Finance, State Budget and Control of Public Spending Committee of 6 September 2016.

⁷³⁴ Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-21=3, 22-25=4, 26-30=5.

adopted manuals covering financial, compliance and performance audits, and quality control that address international auditing standards. However, new quality-control measures will start only in 2017. The SAI does not audit all public administration institutions within its mandate every year, although it has mitigated the impact by applying a risk-based approach for its audit planning decisions. The number of recommendations made in audit reports is increasing, and the SAI is taking steps to improve the number implemented by auditees. However, the number of misdemeanours and offences identified by the SAI is also increasing, and the work involved in handling the legal aspects of these cases has a negative impact on the time available for audit staff to undertake financial and performance audits. Individual audit reports are not always discussed in Parliament, and public hearings do not yet take place. Moreover, procedures do not exist for the discharge of the executive with respect to the financial results of the public administration organisations.

Key recommendations

Short-term (1-2 years)

- 1) The SAI should take steps to minimise the impact of offence procedures on the time available for audit staff to undertake financial and performance audits.
- 2) The MoF and the Parliament should ensure that the budget approval process is closely followed in future years, to ensure that the finances and operations of the SAI are not adversely affected by Government action.
- 3) The SAI should work closely with the Parliament to establish improved working arrangements that ensure that issues raised in SAI reports, and the broad range of public administration institutions covered, can be examined more effectively by the Parliament.

Medium-term (3-5 years)

- 4) The SAI should endeavour to revise the Audit Law to provide longer terms of appointment for SAI Council Members, which are currently five years, and to raise the possibility of increasing the minimum number of Members of the Parliament required to initiate the dismissal of SAI Council Members.

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