Monitoring Report

The Principles of Public Administration

Bosnia and Herzegovina

November 2021
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# List of abbreviations and acronyms

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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>BD</td>
<td>Brčko District</td>
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<tr>
<td>BFD</td>
<td>Budget Framework Document</td>
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<tr>
<td>BiH</td>
<td>Bosnia and Herzegovina</td>
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<tr>
<td>CoG</td>
<td>centre-of-government</td>
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<tr>
<td>CoM</td>
<td>Council of Ministers</td>
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<tr>
<td>DEI</td>
<td>Directorate for European Integration</td>
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<td>DEIC</td>
<td>Department of European Integration and International Co-operation</td>
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<td>EC</td>
<td>European Commission</td>
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<td>EI</td>
<td>European integration</td>
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<td>EU</td>
<td>European Union</td>
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<td>FBiH</td>
<td>Federation of Bosnia and Herzegovina</td>
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<td>GAWP</td>
<td>Government Annual Work Plan</td>
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<td>GS</td>
<td>General Secretariat of the Government (FBiH)</td>
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<td>GSG</td>
<td>General Secretariat of the Government (RS)</td>
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<td>IA</td>
<td>internal audit</td>
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<tr>
<td>IC</td>
<td>internal control</td>
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<tr>
<td>LO</td>
<td>Legislative Office (State level)</td>
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<td>MEI</td>
<td>Ministry of European Integration and International Co-operation</td>
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<td>MoF</td>
<td>Ministry of Finance</td>
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<tr>
<td>MoFT</td>
<td>Ministry of Finance and Treasury</td>
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<tr>
<td>MoFTER</td>
<td>Ministry of Foreign Trade and Economic Relations</td>
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<tr>
<td>OL</td>
<td>Office for Legislation (FBiH)</td>
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<tr>
<td>OLFBiH</td>
<td>Office of the Government of the FBiH for Legislation and Harmonisation with EU Regulations</td>
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<td>PAR</td>
<td>public administration reform</td>
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<td>PFM</td>
<td>public financial management</td>
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<td>PI</td>
<td>Programme of Integration</td>
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<td>PPA</td>
<td>Public Procurement Agency</td>
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<td>PPL</td>
<td>Public Procurement Law</td>
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<td>PRB</td>
<td>Procurement Review Body</td>
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<tr>
<td>RIA</td>
<td>Regulatory Impact Assessment</td>
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<td>RoP</td>
<td>rules of procedure</td>
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<tr>
<td>RS</td>
<td>Republika Srpska</td>
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<tr>
<td>SAA</td>
<td>Stabilisation and Association Agreement</td>
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<tr>
<td>SGBD</td>
<td>Secretariat of Government of BD Government</td>
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<tr>
<td>SGCoM</td>
<td>Secretariat-General of the CoM</td>
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Introduction

The Principles of Public Administration and the EU integration path – measuring the fundamentals

The Principles of Public Administration set out what good public governance entails in practice and outline the main requirements to be followed by countries during the European Union (EU) integration process. Good public governance is key for achieving economic growth, competitiveness and better quality of life. Democratic governance and the rule of law require capable, accountable and effective public administrations. In its 2014 and 2018 Enlargement Strategies, the European Commission (EC) highlighted public administration reform (PAR) as one of three “fundamentals first” areas of the EU enlargement process: “Addressing reforms in the area of rule of law, fundamental rights and good governance remains the most pressing issue for the Western Balkans. It is also the key benchmark against which the prospects of these countries will be judged by the EU”.

A regional series, with a long-term perspective – areas covered in 2021 and 2022

This monitoring report assesses the state of play and progress in improving the quality of national public administrations. Given the geostrategic importance of the Western Balkans to the EU, and the ongoing accession negotiations, SIGMA (Support for Improvement in Governance and Management) conducts regular monitoring of the region. In 2017, SIGMA established a baseline in all areas of public administration. This 2021 report covers the following areas: policy development and co-ordination, accountability, public financial management (budget management and internal control and audit), and public procurement (excluding concessions and public-private partnerships).

In 2022, the following areas will be assessed to cover the full scope of the Principles of Public Administration and compare performance against the 2017 baseline and regional averages: strategic framework of PAR, public service and human resource management, service delivery, external audit and public procurement, including PPPs and concessions.

Structured to provide key insights and recommendations to decision makers and detailed performance data to practitioners

The structure of the report mirrors that of the Principles. Each Principle has a dedicated section for its associated indicator(s). A country executive summary and summaries for each of the thematic areas have been introduced to the 2021 report. The analytical findings and the short- to medium-term recommendations are developed to guide reform efforts and inform the policy dialogue and discussions between the EC and the Government.

SIGMA wishes to thank the authorities for their collaboration in providing the necessary administrative data and documentation, as well as for active engagement during the two rounds of validation to improve the factual accuracy of all the information used. The collaboration with the Regional Cooperation Council on the Balkan Barometer has been excellent. We also thank the experts from EU member countries and national experts who contributed to the report. Finally, the support of the EC is, as always, appreciated.

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2 European Commission (2018), A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, p. 4, [communication-credible-enlargement-perspective-western-balkans_en.pdf](communication-credible-enlargement-perspective-western-balkans_en.pdf) (europa.eu)
Methodology

Overall approach – focus on implementation and outcomes, analysing a variety of primary data sources against precise criteria and benchmarks for an objective assessment

The Methodological Framework for the Principles of Public Administration\(^3\) contains a set of standard indicators that SIGMA applies consistently to measure the preconditions and enablers of successful reforms (good laws, policies and procedures, institutional structures, human resources) and the actual implementation of reforms and subsequent outcomes (how the administration performs in practice).

The overall approach recognises that no single measurement method can fully capture the complex issues related to organisational and behavioural change. SIGMA uses information from administrative data, surveys, statistics, interviews, etc., which is cross-checked and triangulated to arrive at a balanced assessment.

Data sources and validation

The main quantitative and qualitative methods applied in the framework are:

- Desk reviews of legislation, regulations, reports (most recent are analysed if adopted before July 2021)
- Interviews (conducted virtually March-May 2021 with 100+ interviewees per administration, including civil society)
- Review of cases and samples of government documentation (most recent are analysed)
- Observations of practice and on-site verification (conducted virtually March-May 2021 with national expert support)
- Analysis of administrative data from public registries and national statistics (most recent when possible, otherwise from 2020)
- Surveys of the population and businesses through the Balkan Barometer (conducted February-March 2021)\(^4\)
- Surveys of 950 contracting authorities across the region (conducted February-April 2021).

Data was collected through SIGMA’s tool for data collection, analysis and validation (PAR.IS). More than 10 000 documents were received regionally for analysis. In 2021, hundreds of government officials were provided direct access to SIGMA’s detailed working sheets for calculation of numerical sub-indicator values and justifications for fulfilment of each of the criteria, in addition to fact-checking the draft monitoring reports. The monitoring reports only show the overall indicator values, but the detailed criteria-level analysis will be accessible in 2022 through a public portal.

The assessment period is from July 2017 to July 2021. The data collection period was February-May 2021. The COVID-19 pandemic was at its highest, so in-person meetings were replaced by virtual ones. National experts provided invaluable support during this period in securing the necessary data.

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\(^4\) Regional Cooperation Council, https://www.rcc.int/balkanbarometer/home.
Indicator values reflect the level of maturity and preparedness of administrations – from 0 to 5

The indicator values provide an indication of the administrative capacity and overall performance of national public administrations. This provides an indication of the capability to effectively implement the EU acquis and participate in the policy-making processes of the EU.

The point allocation is constructed so that a country can only receive an overall value of 2 on the basis of the quality of its legislative and regulatory framework; a value of 3 cannot be achieved without showing that implementation of key processes is happening in practice; and in order to obtain a value of 4, the country needs to show a consistent achievement of relevant outcomes. The value of 5 is reserved for outstanding performance and full compliance with the Principles and the standards for good public governance.

Understanding how the indicator values are calculated

Across the six thematic areas, the framework is composed of 48 Principles. Each Principle has one or two indicators. There are 52 indicators in total, with 340 sub-indicators and 1000 individual criteria. Indicator values are presented at the top of the overview tables, on a scale from 0 (lowest) to 5 (highest). The indicator value is based on the total number of points received for the sub-indicators. The point conversion tables are accessible in the Methodological Framework. A three-digit reference number precedes the titles of the indicators: the first number refers to the area, the second to the Principle and the third shows whether this is the first or second indicator belonging to that Principle.

If the required information to assess a sub-indicator is not available or is not provided by the administration, 0 points are awarded. All data requested is needed for a well-functioning public administration and SIGMA does not estimate performance in the absence of credible evidence.

Changes in methodology for calculating indicator values in 2021

In 2021, after consultations with the administrations and the European Commission, SIGMA decided to change the formula used to calculate indicator values to better take into account the specificity of Bosnia and Herzegovina. This new approach better reflects the Constitutional arrangements. However, the change means that direct comparability with the 2017 baseline was lost.

Whenever possible, data for the whole country is analysed (such as survey-based sources, indicators in the public procurement area, or sub-indicators related to the Ombudsman Institution). In most cases, however, indicator values are calculated by taking the simple arithmetic average of the number of points awarded from three levels: State level, Federation of Bosnia and Herzegovina and Republika Srpska. Values from the Brčko District are not included in the calculation of the indicator value, but the point allocation is shown. The indicator values are calculated for Bosnia and Herzegovina only, not for each level separately.
Executive summary

Bosnia and Herzegovina (BiH) presented its application for membership of the European Union (EU) in February 2016. In May 2019 the European Commission (EC) issued an Opinion on the application of BiH, providing a comprehensive roadmap for reforms necessary for integration with the EU. One of the fourteen recommendations that the EC presented in its Opinion explicitly refers to public administration reform (PAR), requiring BiH to “complete essential steps in public administration reform towards improving the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated countrywide approach to policy making”.

In 2021 SIGMA conducted a partial assessment of selected areas of public administration in BiH, focusing on policy development and co-ordination, accountability and some aspects of public financial management (PFM) (budget management and public procurement). Compared to the 2017 SIGMA assessment, progress in all these areas is limited and several serious deficiencies, identified previously, remain unresolved. Even if there is some progress in the legislative framework, the implementation is usually weak and fails to achieve the main objectives of the reforms.

Actual implementation of regulations on policy development and co-ordination leaves room for improvement at all levels of government

The Dayton Peace Agreement and the present Constitution of BiH created a complex governance structure wherein there is a clear split of competences between the State level, the two Entities and the Brčko District (BD). While there is no single country-wide centre-of-government institution, relevant institutions at different administrative levels perform most of the typical centre-of-government functions, with the exception of the co-ordination of policy content of proposals. The same applies to the medium-term policy planning system: while there is no single system covering BiH in its entirety, most of the administrative levels have established their own approaches that mostly meet requirements, with the exception of the State level, which does not regulate issues linked with sector strategies. Actual implementation of the regulatory framework for policy planning presents challenges at all levels. There are also significant shortcomings in terms of applying Regulatory Impact Assessment techniques in policy-making, and the public consultation process is not consistently used to improve policies before they are adopted. The legislative branch, at all levels of government, is entitled to scrutinise the work of the government, and co-operation with the executive branch happens also in practice. While the European Integration (EI) functions are clearly assigned to institutions at all levels of administration, and most of the required guidelines for carrying out EI-related tasks are present, the actual functioning of the EI co-ordination mechanisms is not meeting the set benchmarks. There is also a lack of a country-wide Programme of Integration that would set out approximation plans for harmonisation with the EU acquis.

The way forward in the area of policy development and co-ordination:

- The Council of Ministers (CoM) of BiH and the governments of the Federation of BiH (FBiH), Republika Srpska (RS) and BD should improve the functioning of formal co-ordination mechanisms for both policy planning and policy development, and strictly follow set legal requirements regarding the quality of different draft documents and required analysis.

There are some signs of improvement in the area of accountability, but the implementation is weak

Overall, the legal framework concerning the organisation, transparency, internal and external accountability, and liability of the public administration in BiH fulfils the minimum international standards. However, there is significant scope for improvement in some areas, particularly concerning the lack of clarity of the public administration structure defined in legislation and the inadequate, weak institutionalisation of the oversight functions in the area of free access to public information. Nevertheless, the most critical weaknesses relate to implementation. Governments at all levels are not promoting proactive disclosure of information, over which they have ample margin of manoeuvre. In addition, external oversight is inadequate as public institutions do not implement most of the Ombudsman Institution and
State Audit offices’ recommendations, except at the State level. The efficiency of courts in handling administrative cases varies sharply across BiH, and it is far below the European average except in the RS. In this context, public trust in public institutions, concerning their transparency and the effectiveness of oversight functions, is low and shows a declining trend.

The way forward in the area of accountability:

- Legislation on access to information (at all levels of government) should be amended to enhance transparency, establish clear and comprehensive catalogues of information to be proactively disclosed and clearly define procedures for supervision.

**PFM strategies have been updated, but serious problems related to transparency and reporting remain unresolved; public procurement needs adoption of new legislation**

PFM strategies have been adopted up to 2025 to drive forward reforms. The budgetary frameworks and processes in place continue to be impacted by their complexity, with budget discipline undermined by the failures to observe the budget calendar, use of temporary financing measures and limited time for parliamentary scrutiny. While the level of public government debt is relatively low the approach to fiscal rules is inconsistent. There has been some progress in developing the transparency and comprehensiveness of budget reporting, but weaknesses remain and parliamentary scrutiny continues to be limited. The regulatory and operational frameworks for internal control (IC) and internal audit (IA) are largely in place. However, the implementation of IC systems and managerial accountability needs significant strengthening. The FBiH and RS face greater implementation challenges due to the numbers of institutions required to implement IC systems. While the establishment of IA units and implementation of IA has progressed, there are still significant areas for improvement. Both IC and IA are still in the formative stages of development and implementation in BD.

There has been no progress in the area of public procurement. The Public Procurement Law (PPL) has remained unchanged since 2014. Implementation of the PPL, in the common opinion of stakeholders, is very formalistic and harms the quality of the process. For example, mandatory self-declaration of economic operators, introduced in the PPL with the intention to ease participation, imposes more burdens and costs on participants. Understaffing of the Public Procurement Agency (PPA) is a source of serious concern given the volume, variety and importance of the PPA functions. The rising trend in the number of appeals submitted to the Procurement Review Body (PRB) requires strengthening of the PRB capacity. The lack of transparency and inconsistency of the PRB decisions and the duration of the review process, especially before the Court of BiH (one to three years), are the most critical aspects of the procurement review system.

The way forward in the area of PFM:

- The CoM of BiH and the Entity Governments should recommit themselves to observing the budget calendar as set out in the respective budget laws, as the delays in finalising and adopting the annual budgets undermines the budgetary system.
- The new PPL should be adopted.
Policy Development and Co-ordination
## The Principles of Public Administration
### Policy Development and Co-ordination

<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>Principle 1</strong></td>
<td>Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.</td>
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<tr>
<td><strong>Principle 2</strong></td>
<td>Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.</td>
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<td><strong>Principle 3</strong></td>
<td>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.</td>
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<td><strong>Principle 4</strong></td>
<td>A harmonised medium term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.</td>
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<td><strong>Principle 5</strong></td>
<td>Regular monitoring of the government’s performance enables public scrutiny and supports the government in achieving its objectives.</td>
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<td><strong>Principle 6</strong></td>
<td>Government decisions are prepared in a transparent manner and based on the administration’s professional judgement; legal conformity of the decisions is ensured.</td>
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<td><strong>Principle 7</strong></td>
<td>The parliament scrutinises government policy making.</td>
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<td><strong>Principle 8</strong></td>
<td>The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.</td>
</tr>
<tr>
<td><strong>Principle 9</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Principle 10</strong></td>
<td>The policy making and legal drafting process is evidence based, and impact assessment is consistently used across ministries.</td>
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<tr>
<td><strong>Principle 11</strong></td>
<td>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.</td>
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<tr>
<td><strong>Principle 12</strong></td>
<td>Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.</td>
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Policy Development and Co-ordination

Summary and recommendations

Overall, there have been no major changes in the policy development and co-ordination area in Bosnia and Herzegovina (BiH) since the 2017 SIGMA assessment. As different methodological approaches have been applied, it is not possible to make direct comparisons between the indicator values in the 2017 and 2021 assessments.

Most of the key centre-of-government (CoG) functions have been established at all administrative levels of government of BiH, with exception of the function of co-ordinating policy content of proposals before final adoption. There are no formalised and institutionalised co-ordination arrangements between the CoG institutions that allow them to check and harmonise their opinions on the quality of proposed policies and thus provide coherent and clear advice for final decision-making by the administrations. While interministerial consultation processes are regulated at all levels, the outcomes of these processes are not clearly presented to governments.

While government work-planning and monitoring processes, legal drafting and policy-making processes and tools (such as application of regulatory impact assessment and public consultations on new policies) are mostly regulated and supported, detailed guidelines on sector strategic planning exist only in the Republika Srpska (RS) and the Brčko District (BD). It should be noted that both the Federation of Bosnia and Herzegovina (FBiH) and the RS have recently introduced new regulatory frameworks on strategic planning systems, but their impact on the quality of planning is yet to be seen. It should also be noted that the State level is the only one that has no regulatory framework for sector strategic planning. Challenges and weaknesses exist in the quality of planning documents and actual implementation across all levels of BiH administration.

There are significant issues with monitoring and reporting practices for key government and policy-planning documents at all levels, especially in regard to the quality and consistency of monitoring and the use of outcome-oriented indicators and in clearly showing progress in achieving the set objectives. Monitoring reports on planning documents are not prepared regularly and are not proactively published and made available to citizens online. The review of samples provided during the assessment shows that there are major shortcomings in the quality of monitoring reports. The analysis is mostly rudimentary, providing very limited information on the impact of policy changes.

The European integration functions, such as daily co-ordination, planning and monitoring and legal harmonisation rules and procedures, are mostly in place from a regulatory perspective, as is the guidance institutions need to carry out their tasks regarding the process. However, current practice shows deviations from regulations, as there is still no adopted countrywide Programme of Integration setting out clear tasks and deadlines for actions related to European integration, and the co-ordination forums do not meet as frequently as envisaged. It should be noted that the RS is currently the only level with a formally approved EI action plan.

The legislative branches at all administrative levels have well defined regulations and procedures for scrutiny of the work of the executive level. It should be noted, however, that extensive use of urgent procedure for approval of laws can be observed, as well as limited discussion on implementation of laws and policies.

Regulatory impact assessment, as an ex ante tool for policy analysis, is formally established at all levels, but it is not systematically and fully used in practice. The same applies to public consultations. While regulatory requirements are in place, the actual practice is of limited quality, and outcomes of consultations are hard to trace. As a result, the impact of these essential policy-making instruments on the quality of policy design in BiH is minimal.
Short-term recommendations (1-2 years)

1) The Council of Ministers (CoM) of BiH, the governments of the FBiH, the RS, and the BD should ensure that the new whole-of-BiH European integration planning document (the Programme of Integration) is finalised and adopted as soon as possible. The political level co-ordination forum (the Collegium for EU integration) and the administrative-level co-ordination forum (the Commission for European Integration) should meet more regularly, monitor implementation of the Programme of Integration and take action to ensure more efficient and effective implementation.

2) The CoM of BiH should set up a legal framework for sectoral strategic planning and start implementing it. It should also carry out extensive capacity building of civil servants involved in sector policy planning. The FBiH and the RS should ensure full and consistent implementation of the procedures and standards set by the legal frameworks of their new planning systems.

3) Capacities of the CoGs at all administrative levels should be enhanced to provide the necessary guidance and support during implementation of the legal frameworks for sectoral strategic planning, as well as to carry out final checks and quality control of draft planning documents.

4) The CoM of BiH and the governments of the FBiH, the RS and the BD should establish a formal requirement to proactively publish online reports on implementation of key planning documents that include information on progress towards achievement of set objectives and outcomes.

5) The Rules of Procedure (RoP) of the Government of FBiH should be amended to foresee that the Office for European Integration becomes a formal part of the interministerial consultation process and to ensure that developed policies and planning documents are coherent and consistent with the EI process of the country.

6) The CoM of BiH and the governments of the FBiH, the RS and the BD should formally designate an institution (preferably a CoG body) to be in charge of scrutinising the quality of the public consultation process as well as the quality of reporting on this process and its outcomes. Also, a proactive system of informing stakeholders about upcoming consultations should be set up at all levels of government of BiH.

7) All administrative levels of BiH should ensure implementation of the existing rules and procedures for conducting ex ante Regulatory Impact Assessment (RIA) on regulatory proposals in line with the existing methodologies, targeting the most significant policy proposals first.

Medium-term recommendations (3-5 years)

8) The CoM of BiH and the governments of the FBiH, the RS and the BD should establish the function of co-ordination of policy content of proposals heading for approval within their respective CoG institutions, to ensure closer formal and informal co-ordination in regard to both policy planning and policy development. The respective CoG institutions should have a right to analyse draft proposals and send them back to initiating institutions if the package content is not coherent and consistent with set government priorities and previously announced policies.

9) All levels of the BiH administration should ensure systemic monitoring of implementation of sectoral policy-planning documents, by setting the quality requirements and reviewing the procedures, and should put in place activities to build the capacities required for these purposes. These monitoring reports should also be proactively published on line.

10) The ministries of the State level, the FBiH, the RS and the BD should establish clear internal rules to ensure that policy development and drafting of legislation are well-co-ordinated and that key elements, such as public consultation, are well prepared. On all levels, the executive branch should ensure sufficient staff capacities for ministries to implement requirements for impact assessment and consultation.
Analysis

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

The overall value for the indicator “Fulfilment of critical functions by the centre-of-government institutions” is 3.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State level</td>
<td>FBIH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
</tr>
</tbody>
</table>

Sub-indicators Points

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

Total* 10/16

*Average of the State level, FBIH and RS.

The Dayton Peace Agreement and the present Constitution of BiH have created a complex governance structure and, as the core executive, the CoM of BiH and the Governments of the FBIH, the RS and the BD are established and functioning. Therefore, due to the constitutional split of competences between the levels, there is no single CoG in BiH.

Apart from the function of co-ordinating the policy content of proposals, including their coherence with government priorities, the critical CoG functions are assigned to relevant institutions at all levels of the administration. Separate regulatory frameworks govern the functioning of the CoGs at the different levels.

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5 Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-12=3, 13-14=4, 15-16=5.
6 The Constitution of Bosnia and Herzegovina, [http://www.ohr.int/?page_id=68220](http://www.ohr.int/?page_id=68220).
7 The Presidency, a collective body comprising three representatives of the constituent peoples of BiH, is the highest executive power. As a collective body of the heads of state, the Presidency has been assigned roles with regard to foreign policy and defence, and it is the body that submits a budget proposal to the BiH Parliamentary Assembly once the CoM of BiH has developed the draft.
At the State level, the co-ordination of preparations for CoM sessions is assigned to the Administrative Service of the Secretariat-General of the CoM (SGCoM), and the Legislative Office of the CoM is responsible for ensuring legal conformity. The co-ordination of preparation and approval of the Government’s strategic priorities and work programme and monitoring of the performance of the CoM is shared between the Office of the Chairman of the CoM and the SGCoM. The Annual Work Programme of the CoM is developed with the involvement of the sector for co-ordination of preparation, implementation, monitoring and evaluation of development documents and social inclusion analysis of the Department of Economic Planning. The functions of ensuring that policies are affordable and co-ordinating public-sector resource planning are assigned to the Ministry of Finance and Treasury (MoFT). The Information Service of the SGCoM co-ordinates the CoM’s communication activities. The Administrative Service of the SGCoM manages relations with the Parliament and the President’s Office. The Directorate for European Integration (DEI) is responsible for the co-ordination of European integration (EI) matters.

At the FBiH level, the co-ordination of preparations for government sessions and the management of relations with other institutions are performed by the General Secretariat of the Government (GS) of the FBiH. The Office of the Government of the FBiH for Legislation and Harmonisation with EU Regulations (OLFBiH) is responsible for ensuring legal conformity. The co-ordination of the preparation and approval of the Government’s strategic priorities and work programme and the monitoring of the Government’s performance are carried out primarily by the Federal Institute of Development Programming. The Federal Ministry of Finance (MoF) is responsible for ensuring that policies are affordable and for co-ordinating public-sector resource planning. The Public Relations Office of the Office of the Government of the FBiH co-ordinates the Government’s communication activities. The Office of the Government of the FBiH for EI is responsible for the co-ordination of EI matters, except for legal harmonisation.

In the RS, the General Secretariat of the Government (GSG) is responsible for co-ordinating preparations for government sessions, co-ordinating preparation and approval of the Government’s strategic priorities and work programme, monitoring the Government’s performance and managing relations with other institutions. The Secretariat for Legislation is responsible for ensuring legal conformity. The MoF is responsible for co-ordinating public-sector resource planning and ensuring that policies are affordable. The Sector for Public Relations of the GSG leads co-ordination of the Government’s communication activities. The Ministry of European Integration and International Co-operation (MEI) is in charge of co-ordination on EI matters.

In the BD, the Secretariat of Government of BD Government (SGBD) is responsible for co-ordinating preparations for government sessions, co-ordinating preparation and approval of the Government’s strategic priorities and work programme and managing relations with other institutions. The Legislative Office of the Mayor’s Office is responsible for ensuring legal conformity. The Information Sector of the SGBD co-ordinates the Government’s communication activities. The Head Co-ordinator of the BD Government is responsible for monitoring the Government’s performance, with the support of the SGBD. The Finance Directorate of the Brčko District of BiH is responsible for co-ordinating public-sector resource planning and ensuring that policies are affordable. The Department of European Integration and International Co-operation (DEIC) is responsible for EI-related co-ordination tasks.

With respect to the mandate of the CoG to lead co-ordination of policy content and ensure policy coherence, the function is: 1) not established (in the case of FBiH); 2) established mainly though the quality assurance of RIA processes, but only in terms of formal compliance (at the State level and at the BD); or 3) prescribed only partially (in the case of the RS, where coherence with government priorities is to be checked for medium-term and annual plans of the institutions, but no other aspects of policy coherence review are regulated).
All administrative levels of BiH have detailed regulations or guidelines supporting government work planning and monitoring processes\(^{10}\), legal drafting\(^{11}\), policy elaboration processes (mainly through the application of RIA)\(^{12}\) and public consultation\(^{13}\). For sectoral strategic planning, detailed legal provisions or guidelines exist only in the RS and the BD\(^{14}\). Noteworthy recent regulatory changes occurred in the FBiH, which has adopted a new Law on Development Planning and new methodological Decrees\(^{15}\) affecting both annual government work planning and strategy development. However, since their application has been postponed until 2022, they are not considered guidelines currently in place. Also, the RS National Assembly adopted a new Law on Strategic Planning and Development Management on 22 June 2021, but the related regulations or guidelines are not yet in place. However, given that the application of this new law extends beyond the current assessment period, this does not affect the findings on the existence of supporting documents for sectoral planning in the RS.

Co-ordination between CoG institutions in policy planning and policy development is very limited at all levels of the administration. Interviews with representatives of the main CoG institutions at all levels

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11. The State level Uniform Rules for Legislative Drafting in the Institutions of Bosnia and Herzegovina, Official Gazette of BiH Nos. 11/05, 58/14, 60/14, 50/17 and 70/17 – Corrigendum; Rules and Procedures for Draft Laws and Other Regulations of the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 71/14; Rules for drafting laws and other regulations of the RS No. 01-330/14 of 5 March 2014; the BD Decision on the Procedures for Making Laws and Other Regulations No. 02-000186/20 and the Decision on the Adoption of Uniform Rules and Procedures for the Development of Laws and Regulations of the Brčko District of Bosnia and Herzegovina No. 01-02-512/12-1.


13. The State level Rules for Consultation in Legal Drafting VM No. 314/16, Official Gazette of BiH No. 05/17 of 20 December 2016; Regulation of the Rules for the Participation of the Interested Public in the Preparation Procedure of Federal Legal Regulations and Other Acts, Official Gazette of the Federation of BiH No. 51/12; Guidelines for the actions of the administrative bodies on public and consultations in legal drafting No. 04/1-012-2911/08 of 11 December 2008, amended in 2012 to also include consultation of bylaws, Official Gazette of BiH No. 73/12; the BD Decision on Consultation in Drawing Up Regulations and Other Acts No. 02-000338/14 of 3 March 2017.


15. Law on Development Planning and Management in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 32/17; Decree on triennial and annual work planning, monitoring and reporting in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 74/19; Decree on Strategic Documents Drafting in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 74/19.
confirmed that co-ordination and discussions among these institutions are limited to ad hoc cases and are not formalised. In the case of the Government Annual Work Plan (GAWP), only the Commission on Programmes and Reports on the Work of the FBiH Government\textsuperscript{16} is tasked with reviewing the draft GAWP, consolidating the opinions of the CoG institutions on the draft and discussing those opinions during its meetings, but its actual functioning could not be assessed during the assessment period. These interviews also confirmed that, at the State level and in the RS and the BD, the role and commitment of the Legislative Offices and Ministries of Finance in reviewing the draft GAWPs was either very limited or non-existent\textsuperscript{17}. Consolidated comments on proposals or systematic prior discussions on proposals among the various CoG bodies is not in place at any level of the BiH administration.

**Conclusion**

The critical CoG functions are established at all levels, with the exception of the function of co-ordination of policy content of proposals. Detailed regulations or guidelines support the implementation of work planning and monitoring, legal drafting, policy development and consultations at all levels. Sector strategy development is regulated in the FBiH, the RS and the BD, but not at the State level. Co-ordination between the different CoG bodies is mostly ad hoc and is not formalised.

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

The overall value for the indicator “Fulfilment of European integration functions by the centre-of-government institutions” is 3.

| Indicator 2.2.1. Fulfilment of European integration functions by the centre-of-government institutions |
|---|---|---|---|---|
| **This indicator measures to what extent the minimum criteria for European integration (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 2021 indicator value | 0 | 1 | 2 | 3 | 4 | 5 |
| **State level** | **FBIH** | **RS** | **BD** | **Bosnia and Herzegovina** |
| Sub-indicators | Points |
| 1. Proportion of the EI functions that are assigned to the CoG institutions by law | 5 | 5 | 6 | 5 | 5/6* |
| 2. Availability of guidelines to line ministries and other government bodies | 3 | 3 | 3 | 3 | 3/4* |
| 3. Government’s capacity for co-ordination of EI | 2 | 0 | 6 | 2 | 3/8* |
| **Total\textsuperscript{18}** | **11/18** |

\textsuperscript{16} Article 4 of the Regulation on Work Planning and Reporting on the Work of the Government of the Federation of Bosnia and Herzegovina, Federal Ministries and Institutions, Official Gazette of the Federation of BiH, No. 89/14 of 23 October 2014.

\textsuperscript{17} Except for the BD, where the preparation of the Legislative Plan is co-ordinated by the Legislative Office.

\textsuperscript{18} Point conversion ranges: 0-2=0, 3-5=1, 6-9=2, 10-13=3, 14-16=4, 17-18=5.
As defined in the Law on the CoM of BiH19, the Law on Ministries and other Bodies of Administration of BiH20, and the Rulebook on Internal Organisation of the Directorate for European Integration21, the DEI has the ultimate mandate of co-ordinating and harmonising all EI-related activities of the relevant institutions at all levels of the administration22. The DEI has also been tasked with: 1) leading and co-ordinating communication with EU structures on all EI-related matters; 2) participating in the preparation of policy proposals, draft laws and EI-related regulations and guidelines; and 3) providing advice concerning issues of harmonisation of the processes and activities of all of the jurisdictions of BiH for the implementation of obligations related to EI. Although the DEI at the State level has an overall mandate to lead and co-ordinate all EI matters for the whole country, all levels of the administration share the responsibility and authority for EI.

The majority of EI functions have been established in the respective EI institutions at both Entities and also in the BD. In the FBiH, this role is shared by the EI Office and the OLFBiH, which is responsible for harmonisation of FBiH regulations with EU regulations. In the RS, the MEI exercises these functions. In the BD, EI functions have been assigned to the DEIC. With the exception of the RS, BiH authorities have not formally established functions for the co-ordination of accession negotiations.

Formally adopted guidelines applicable to all levels of administration are available to support the fulfilment of EI functions in the areas of planning23, reporting24, translation25 and alignment of national legislation

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19 Law on the CoM of BiH of 17 July, 2013, Article 23, Official Gazette of BiH Nos. 30/03, 42/03, 81/06, 76/07, 81/07, 94/07 and 24/08.
20 Law of the State on Ministries and other Bodies of Administration of BiH, 7 March 2003, Article 18, Official Gazette of BiH Nos. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09 and 103/09.
21 Rulebook on Internal Organisation of the Directorate for European Integration, Decision No. 05/B-02-3-KT-1151-4/18 of 9 October 2018.
22 The following key EI-related functions are expected to be defined and fulfilled by CoG institutions: 1) overall daily co-ordination; 2) planning of EI, including the costing of reforms; 3) monitoring of preparations for the EI process; 4) co-ordination of the transposition of the acquis; 5) co-ordination of EU assistance; and 6) co-ordination of EI-related negotiations.
23 The State level, the FBiH and the BD apply the Methodology for Development of the Programme of Integration of BiH in the EU, which was adopted by the Collegium for European Integration by Conclusion 8/2020 on 24 September 2020, while the RS also uses the RS Decision on the Procedure of Planning, Monitoring and Reporting on the Realisation of Adopted Strategies and Plans of the Government of the Republic of Srpska and Administrative Bodies of the Republic, Official Gazette of the Republic of Srpska Nos. 50/16 and 108/18 and the Decision on co-ordination of the republican administrative bodies in the implementation of activities in the field of European integration and international co-operation, Official Gazette of the Republic of Srpska, No. 119/18.
24 The State level, the FBiH and the BD apply the DEI’s Guidelines for Reporting in the EI process (from April 2017, overwriting the previous CoM of BiH Guidelines for reporting to the European Commission in the process of European integration provided by the Council of Ministers of BiH from July 2013). The RS also applies its own two above-listed Decisions, as well as the Methodology of Reporting to the Institutions of the EU in the EI Process No. 17-03-020-131/16 of 18 January 2016.
25 The State level, the FBiH and the BD apply the DEI’s Handbook for translating European Union legal acts and Manual for translation of legislation in BiH into English (2019), while the RS applies its own Guidelines and recommendations for translation in the field of European integration and international co-operation (December 2015) and the Practicum for translation, editing of regulations of the Republic of Srpska due to the needs of the European integration process (December 2016).

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with the *acquis*²⁶, as well as for the co-ordination in EI-related negotiations²⁷, but not for planning and monitoring of EU assistance. In this latter respect, the DEI has developed guidelines for development of Action Documents (IPA III), but there is no comprehensive and unified legal framework and whole-of-country agreement on the management, planning and co-ordination of EU assistance. While the existence of these guidelines and the proactive work of the DEI is commendable, it cannot replace an established, regulated framework.

Apart from the respective bodies consistently providing their opinions on draft legal acts transposing the *acquis*, the capacities for co-ordination of EI are generally not in place. This aspect has not been observed in the FBiH, as there were no samples that could be assessed. Neither the highest political-level co-ordination forum (the Collegium for EU Integration) nor the highest administrative-level body (the Commission for European Integration) has met frequently enough in the assessment period to be considered as a functioning co-ordination mechanism for EI²⁸.

While work started in September 2020 on the new, whole-of-BiH planning document (the Programme of Integration), the country still does not possess a countrywide planning document that sets out clear approximation plans with the EU *acquis*. However, the practice of developing annual Action Plans for realisation of priorities from the EU BiH Reports remained in place until mid-2020. The last such plan is the Action Plan for the realisation of priorities from the EU Analytical Report, covering the period from July 2019 to May 2020. It should be noted that the RS also has its own Action Plan for aligning RS legislation with the EU *acquis* and legal acts of the Council of Europe, for both 2020 and 2021. Consequently, except for the RS, no EI plan is currently in place.

The DEI developed a monitoring report on the implementation of the 2019 Action Plan, but no new Action Plan was developed for 2020 and there was no comprehensive report about progress on EI in 2020. Hence uninterrupted reporting practice is not in place for the State level, the FBiH and the BD. For the RS, regular, annual reporting is ensured through the Information on obligations for BiH and RS arising from the EU accession process, a report of the MEI submitted to the RS Government²⁹ and then to the National Assembly for adoption.

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²⁶ The State and the FBiH use the CoM Decision on the procedure of harmonisation of the legislation of Bosnia and Herzegovina with the *acquis communautaire*, Official Gazette of BiH Nos. 75/16 and 2/18. The RS uses its Decision on the Procedure of Aligning the Republic of Srpska Legislation with the EU *acquis* and Practice and Standards of the Council of Europe, Official Gazette of the Republic of Srpska No. 119/18; Instructions on completing comparative reviews of harmonisation of draft and proposal of regulations with the EU *acquis* and legal acts of the Council of Europe, Official Gazette of the Republic of Srpska No. 102/14; Instructions on completing statements of harmonisation of draft and proposal Regulations with the EU acquis and legal acts of the Council of Europe, Official Gazette of the Republic of Srpska No. 102/14; and Methodology for Harmonisation of the Legislation of the Republic with the *acquis* of the European Union (February 2011). The BD applies its Decision on procedures in the process of harmonising the legislation of the Brčko District of BiH with legislation of European Union, Official Gazette of the Brčko District of BiH No. 9/14.

²⁷ The Guidelines for Reporting in the EI process elaborate on the process of co-ordinated inputs for different dialogues with the EU within the framework of implementation of the Stabilisation and Association Agreement (SAA) and are hence assessed as a valid guideline for EI-related negotiations.

²⁸ The Collegium held its last (fourth) meeting in May 2020, followed by two electronic meetings due to the COVID-19 situation and hence does not meet quarterly as required by the SIGMA assessment methodology. The Commission held its last meeting on 21 May 2021 and additional five electronic meetings were reported. Given that the SIGMA methodology expects at least monthly co-ordination meetings at the administrative level, this does not meet the requirements.

²⁹ The latest such report was adopted by the RS Government on 25 February 2021.
Conclusion

The majority of the EI functions are in place and their implementation is supported with written guidance. The co-ordination of the EI processes is not ensured as the countrywide co-ordination forums don’t meet frequently enough. Planning and monitoring of the EI process are at a standstill, given that the new, whole-of-BiH Programme of Integration has not yet been finalised and the practice of regular reporting on the previous plans has stopped.

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 overall value for the indicator “Quality of policy planning” is 2.

<table>
<thead>
<tr>
<th>Indicator 2.3.1. Quality of policy planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>FBIH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Adequacy of the legal framework for policy planning</td>
<td>4</td>
<td>7</td>
<td>6</td>
<td>7</td>
<td>6/7*</td>
<td></td>
</tr>
<tr>
<td>2. Availability of guidance to line ministries during the policy-planning process</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>3/4*</td>
<td></td>
</tr>
<tr>
<td>3. Alignment between central policy planning documents</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0/6*</td>
<td></td>
</tr>
<tr>
<td>4. Planned commitments carried forward in the legislative plan (%)</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>1/4*</td>
<td></td>
</tr>
<tr>
<td>5. Planned sectoral strategies carried forward (%)</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0/4*</td>
<td></td>
</tr>
<tr>
<td>6. Presence of minimum content in sector strategies</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>3/6*</td>
<td></td>
</tr>
<tr>
<td>7. Completeness of financial estimates in sector strategies</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0/5*</td>
<td></td>
</tr>
<tr>
<td>8. Alignment between planned costs in sector policy plans and medium-term budget</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0/3*</td>
<td></td>
</tr>
<tr>
<td>Total*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>13/39</td>
<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS.

Given the complex Constitutional setup, there is no single, medium-term policy-planning system in BiH. The policy-planning systems in the State, the Entities and the BD include horizontal government planning.

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30 Point conversion ranges: 0-5=0, 6-12=1, 13-19=2, 20-26=3, 27-33=4, 34-39=5.
documents and sectoral strategies that help to plan and implement policies within the authority and jurisdiction of each level of the administration. The political priorities are prescribed in the exposés of the Chairman of the CoM and the Prime Ministers (the Government Programme). The key medium-term planning documents at all levels of the administration include the Medium-Term Government Programme (in the case of the State and the FBiH), annual and medium-term institutional plans (in the case of the State, the FBiH\textsuperscript{31}, the RS and the BD\textsuperscript{32}), the GAWP, the Budget Framework Document (BFD)\textsuperscript{33}, and sectoral strategies.

The medium-term policy-planning systems have been established through separate laws and regulations at all levels of the administration. With the exception of the State level, they are recent and not yet fully operational. In the FBiH\textsuperscript{34}, the RS\textsuperscript{35} and the BD\textsuperscript{36}, the legal frameworks provide clarity on the status of various planning documents and a clear hierarchy of planning documents, prescribe the steps in policy planning and establish the system of sectoral strategic planning with a mandate for a CoG body to exercise quality control over them. As for the requirement for costing in sector strategies (including identification of sources of funding), the FBiH and the BD regulatory frameworks contain such provisions, but not the RS legislation. The role of government-level policy planning by a CoG body has been assigned at all administrative levels\textsuperscript{37}. At the State level, the regulatory framework for planning has not changed since the 2017 assessment. It still does not cover sectoral strategic planning, quality control or costing.

\textsuperscript{31} Individual plans for ministries and other government institutions exist at the levels of the BiH State and the FBiH. Medium-term institutional plans, which are linked to the Medium-Term Government Programme, are elaborated by the ministries and adopted by the respective minister.

\textsuperscript{32} In the RS, the institutional work plans are adopted by the Government. In the BD, medium-term institutional plans are called strategic plans.

\textsuperscript{33} The Budget Framework Document (BFD) contains macroeconomic projections and forecasts of budget resources for a three-year period. The preparation of the annual budget is based on the BFD at all levels of administration.

\textsuperscript{34} The Law on Development Planning and Management in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 32/17 and the Decree on triennial and annual work planning, monitoring and reporting in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 74/19. However, the implementation of the new Law has been postponed to 2022 with an Amendment to the Decree, Official Gazette of the Federation of BiH No. 2/21 and the former Regulation on Work Planning and Reporting on the Work of the Government of the Federation of Bosnia and Herzegovina, Federal Ministries and Institutions, Official Gazette of the Federation of BiH No. 89/14 of 23 October 2014 remained in force for this period.

\textsuperscript{35} The new Law on Strategic Planning and Development Management in the Republic of Srpska was adopted by the RS National Assembly on 22 June 2021. Also, the previous Decision on the Procedures of Planning, Monitoring and Reporting on the Implementation of the Adopted Strategies and Plans of the Government of the Republic of Srpska and Republican Administrative Bodies No. 04/1-012-2-1328/16 of 9 June 2016 elaborates the details of planning, including sectoral strategic planning.

\textsuperscript{36} The Law about the Budget of Brčko District of Bosnia and Herzegovina No. 01-02-764 /19 of 18 December 2019; the Rulebook on the Content and Methodology of Development, System of Monitoring and Supervision of the Implementation of Strategic Documents and Implementation Documents No. 02-000228/20) of 27 October 2020.

\textsuperscript{37} At the State level, the Decision on the Medium Term Planning, Monitoring and Reporting Process in the Institutions of Bosnia and Herzegovina, Article 3 assigns this role to the DEP for medium-term planning, Official Gazette No 62 of 11 August 2014; and the Decision on Annual Work Planning and Manner of Monitoring and Reporting on Work in the Institutions of Bosnia and Herzegovina mandates the General Secretariat of the Council of Ministers for annual work planning, Official Gazette of BiH No. 94/14. In the FBiH, this task is assigned to the Federal Institute for Development Planning by the Law on Development Planning and to the GS, as per Article 7 of the Regulation on Work Planning and Reporting on the Work of the Government of the Federation of Bosnia and Herzegovina, Federal Ministries and Institutions. In the RS, Article 5 of the Decision on the Procedures of Planning, Monitoring and Reporting on the Implementation of the Adopted Strategies and Plans of the Government of the Republic of Srpska and Republican Administrative Bodies, No. 04/1-012-2-1328/16) of 9 June 2016 and Article 6 of the new Law on Strategic Planning task the GSG with government-level planning. In the BD, Article 4 of the Organisational Plan of the Office of the Mayor of Brčko District of Bosnia and Herzegovina provides this function to the Strategic Planning Department.
As demonstrated by the respective administrations of the State level, the FBIH and the RS, guidance is provided in the form of circulars or instructions for planning and monitoring of the GAWPs and for elaborating medium-term budget documents. While similar practice has also been indicated by representatives of the BD administration, no such document was provided for assessment\(^{38}\). The review of sample sector strategies of all administrative levels of BiH\(^{39}\), shows that guidance related to sectoral planning is not provided systematically at any level.

Alignment between central planning documents at all levels of the administration is weak. The priorities expressed in the GAWPs and the BFDs are either not coherent or are incomparable\(^{40}\). While the BFDs do not include outcome-level indicators for measuring achievement of government priorities, the GAWPs do so for only in exceptional cases\(^{41}\). Comparison of the legislative initiatives planned in the analysed sample strategies for 2021 with the corresponding legislative commitments expressed in the 2021 GAWPs shows that alignment between those stand at 60% for the State level, 57% for FBIH and 40% for the BD. Alignment could not be assessed for the RS, as none of the analysed sector strategies and their action plans indicate identifiable draft laws or exact deadlines by which they should be adopted by Government.

Analysis of the 2020 and 2021 GAWPs shows unrealistic planning practices with high legislative backlogs or plans for strategy development carried forward from one year to another.

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\(^{38}\) Except for medium-term budget preparation, where the practice is confirmed.

\(^{39}\) The following sample sector strategies were analysed:


- **RS**: Adult Education Strategy 2021-2031; Strategy development of statistics of Republika Srpska 2030; Action plan of the Social Housing Development Strategy of the Republic of Srpska for the period 2020-2025; Mental health development strategy in the Republic of Srpska for the period 2020-2030; Social Housing Development Strategy in the Republic of Srpska (2020 - 2030).


\(^{40}\) Either no such priorities are set in the GAWP or the BFD, as is the case in the RS, or they set only vague priorities (e.g. “Building state functions related to meeting the requirements for the European Partnership” in the State level BFD 2021-2023; “preservation of macroeconomic stability and strengthening of fiscal discipline” in the FBIH BFD 2021-2023; and “(…) to maintain fiscal and financial stability, preserve the continuity of social benefits, plan and launch public investments through more efficient implementation of the capital budget, and especially strengthen the institutional fight against corruption” in the 2021 GAWP of the BD).

\(^{41}\) The State-level GAWP contains 506 indicators attached to activities and defines 14 priorities or their underlying, so-called medium-term goals, but these are not supplemented by indicators. The FBIH GAWP includes 230 operational objectives with mostly output-level indicators and 53 so-called strategic goals without indicators. The RS GAWP does not contain whole-of-government priorities. It covers only the institutional strategic and operational goals, with only the latter complemented by indicators, mostly at output-level and many without tangible targets. In the BD, the GAWP is also a list of institutional goals and activities with indicators set at only the output level, if at all.
Table 1. Backlog of legislative and strategy-development commitments in relevant government planning documents of the BiH administration (% of total), 2021

<table>
<thead>
<tr>
<th></th>
<th>State</th>
<th>FBiH</th>
<th>RS</th>
<th>BD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Backlog of legislative commitments</td>
<td>60</td>
<td>50</td>
<td>35</td>
<td>62.5</td>
</tr>
<tr>
<td>Backlog of strategy development commitments</td>
<td>43</td>
<td>100</td>
<td>61.5</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: SIGMA calculations are based on the information and data provided during the assessment.

Review of the sample strategies demonstrates that some but not all of the expected minimum-quality aspects are present in them. The main shortcomings are related to the development of outcome-level indicators with clear targets attached to the objectives of the strategies, as well clear assignment of responsibilities and deadlines for activities, given that several sample strategies were not supported by detailed action plans.

Table 2. Presence of minimum content in sample sector strategies

<table>
<thead>
<tr>
<th></th>
<th>State</th>
<th>FBiH</th>
<th>RS</th>
<th>BD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Situation analysis in majority of samples</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Policy objectives in majority of samples</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Outcome-level indicators in majority of samples</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Target values for at least 90% of indicators</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Assigned activities with deadlines in majority of samples</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Monitoring and reporting requirements in majority of samples</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Source: SIGMA assessment is based on the information and data provided during the assessment.

While all levels of the administration formally require the provision of information on the financial implications of draft regulations, primarily through the relevant RoP of the CoM or Government, review of the last five adopted sectoral strategies at the end of 202042 showed that the costing of strategies had not been carried out adequately at all levels. Only two of all the strategies submitted for review43 actually contained information on potential costs. An assessment of the consistency of the strategies with the medium-term budgetary framework was also hampered by the fact that the BFD, which is the main medium-term financial-planning document, does not include financial projections for the sector, strategy or programme.

Conclusion

The legal framework for planning, including sectoral strategic planning, is mostly adequate, with the exception of the State level of BiH which does not have a regulatory framework for sectoral planning. Guidance is mostly provided for annual planning, monitoring and medium-term budgeting, but not for strategy development. Central planning documents are not aligned and demonstrate implementation backlogs. Some, but not all, of the minimum quality elements of strategies are in place, but financial planning for them exists only in exceptional cases.

42 The BD provided only three sample strategies for assessment.
43 One sample strategy from the FBiH and one from the BD.
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 overall value for the indicator “Quality of policy planning for European integration” is 1.

<table>
<thead>
<tr>
<th>Indicator 2.4.1. Quality of policy planning for European integration</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator analyses the legislative set-up established for policy planning of the European integration (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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State level</strong></td>
<td><strong>FBIH</strong></td>
<td><strong>RS</strong></td>
<td><strong>BD</strong></td>
<td><strong>Bosnia and Herzegovina</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sub-indicators</td>
<td>Adequacy of the legislative framework for harmonised planning of EI</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0/2*</td>
</tr>
<tr>
<td></td>
<td>Quality of planning documents for EI</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td>2/6*</td>
</tr>
<tr>
<td></td>
<td>EI related commitments carried forward (%)</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>1/4*</td>
</tr>
<tr>
<td></td>
<td>Implementation rate of the government’s plans for EI-related legislative commitments (%)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0/4*</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3</td>
<td>1/16</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS.

BiH has not succeeded in establishing a regulatory framework for medium-term planning and monitoring of progress on EI for the whole country. A methodology for the development of the Programme of Integration (PI) has been approved by the Collegium for European Integration, the highest political level co-ordination forum for EI in BiH. Work on the PI started in September 2020, but it had not been finalised at the time of assessment. The previous practice of developing annual action plans for realisation of priorities from the EU progress report has stopped with expiry of the last Action Plan for realisation of priorities from the Analytical report of the EU in May 2020. Given that there is no plan in place covering the assessment period, it was not possible to assess the quality of EI planning from the perspective of its alignment with the GAWP, the proportion of initiatives carried forward from one plan to another or the implementation rate of EI-related legislative commitments.

The only exception currently is the RS, where EI-related commitments are also planned separately, through the action plans for harmonising legislation of the Republic of Srpska with EU acquis and legal acts of the Council of Europe, while non-legislative activities are covered in the institutional annual and multi-annual plans.

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


46 The latest Action Plan for Harmonisation of Regulations and Other General Acts of the Republic of Srpska with the Regulations of the European Union for 2021 was adopted in January 2021. The process of EI planning is also established in the regulatory framework, through the Decision on the Procedure of Planning, Monitoring and Reporting.
While the RS Harmonisation Action Plan is a tabular list of legislative activities with set deadlines for implementation but no indication of costs, the GAWP indicates the source of funding for activities (although cost details are not elaborated) and provides the required details in terms of implementation deadlines for all its activities, including EI-related activities.

Comparison of the RS GAWP for 2021 with the 2021 EI Action Plan shows that the legislative alignment is high (92.6%), as only 2 out of the planned 27 EI-related draft laws in the EI Action Plan were not identifiable in the GAWP. Analysis of the 2020 and 2021 RS EI-related Action Plans demonstrates that 39.3% of all commitments planned for 2020 are carried forward to the following year. Since no report on implementation of the 2020 RS EI Action Plan has been shared for this assessment, the implementation rate of EI-related legislative commitments cannot be established.

**Conclusion**

A medium-term EI planning system has not been established for the whole country. While work on a new countrywide EI planning document has started, currently no comprehensive EI plan is in place for the whole country, as the previous planning practice stopped in May 2020. EU planning remained uninterrupted only in the RS, with a high level of alignment between the annual EI plan and the GAWP, but still with almost 40% of planned EI-related activities carried forward from one year to the next.

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47 Of the 117 EI-related commitments planned by the 2020 Republika Srpska European Integration Action Plan, the same 46 commitments can also be found in the 2021 EI plan.
Principle 5: Regular monitoring of the government’s performance enables public scrutiny and supports the government in achieving its objectives.

The overall value for the indicator “Quality of government monitoring and reporting” is 1.

<table>
<thead>
<tr>
<th>Indicator 2.5.1. Quality of government monitoring and reporting</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>FBiH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Sub-indicators | Points |
1. Adequacy of the legislative framework for monitoring and reporting | 3 | 4 | 5 | 4 | 4/8* |
2. Quality of reporting documents | 0 | 2 | 0 | 2 | 1/12* |
3. Public availability of government reports | 1 | 1 | 1 | 0 | 1/5* |
Total** | 6/25 |

*Average of the State level, FBiH and RS.

The legal obligations for monitoring the Government’s performance and budget execution have been established through separate laws and regulations at each level of the administration. At the State49, FBiH50, RS51 and BD52 levels, the relevant legal frameworks define the requirements for reporting on the implementation of the GAWPs, including legislative plans and the budget, on an annual basis. According to the existing legislation, the GAWP reports and budget execution reports have to be submitted to the relevant Parliament but, otherwise, explicit publication requirements for them exist only in the FBiH and the BD. While regular reporting obligations for EU-related matters are in place only in the RS53, the

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48 Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.
52 The Law About the Budget of Brčko District of Bosnia and Herzegovina No. 01-02-764/19 of 18 December 2019, Article 101; RoP of the BD Government, April 2013, Article 29; Rulebook on the Content and Methodology of Development, System of Monitoring and Supervision of the Implementation of Strategic Documents and Implementation Documents No. 02-000228/20 of 27 October 2020, Annex VI.
53 Decision on the Procedures of Planning, Monitoring and Reporting on the Implementation of the Adopted Strategies and Plans of the Government of the Republic of Srpska and Republican Administrative Bodies No. 04/1-012-2-
requirement to regularly report on the implementation of sector strategies is established at all administrative levels except the State\textsuperscript{54}.

No 2020 GAWP report was provided for assessment at the State level and in the RS. Analysis of the FBiH and BD 2020 GAWP reports shows that they provide information on achievement of outputs, but not on outcomes. As for reporting on EI-related plans, as no separate plan is developed for the State, the FBiH or the BD, the so-called Final Report developed by the DEI in July 2020\textsuperscript{55} and the RS EI report\textsuperscript{56}, elaborated by the MEI have been analysed. Both reports are very comprehensive, but reporting is based on implemented activities, with no clarity on achieved outputs.

Only the RS provided sample reports on implementation of sector strategies for assessment purposes. Of the provided sample reports\textsuperscript{57}, only one contained information on achievement of outputs and none contained information on achievement of outcomes.

Public availability of various reports is very limited, as only the annual budget report is made public and even that is not the case for the BD. Reports on the implementation of the GAWP for 2020 (including legislative activities) are not publicly available at any level, but the 2019 reports were published in the State and the FBiH. Historically, the joint EI implementation reports developed by the DEI were not available publicly, but the Final Report on the Implementation of the Action Plan for the Implementation of Priorities from the European Commission Analytical Report is accessible to the public on line. The RS EI report or the provided sample strategy reports are not publicly available on line.

**Conclusion**

The legal framework for monitoring and reporting across all levels does not fully establish the requirements and standards for reporting on key government planning documents, including the EI and sectoral strategies. Furthermore, no formal requirement has been established to publish reports on key government planning documents at all levels (except for reports on budget execution). Proactive

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\textsuperscript{54} Implementation of sector strategies:

- **FBiH**: Law on Development Planning and Management in the Federation of Bosnia and Herzegovina, Article 7, point g and Article 9, point f, Official Gazette of the Federation of BiH, No. 32/17; Decree on triennial and annual work planning, monitoring and reporting in the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 74/19), Article 16. However, the application of these provisions has been postponed to start in 2022 only.
- **BD**: Law about the Budget of Brčko District of Bosnia and Herzegovina No. 01-02-764/19 of 18 December 2019, Article 35; Rulebook on the Content and Methodology of Development, System of Monitoring and Supervision of the Implementation of Strategic Documents and Implementation Documents No. 02-000228/20 of 27 October 2020, Annex XIII.


\textsuperscript{56} Information on Obligations for Bosnia and Herzegovina and the Republic of Srpska Arising from the Process of Accession to the European Union with a Review of Measures and Activities Implemented During 2020, February 2021.

\textsuperscript{57} The following reports were provided by the RS administration: Report on the implementation of the Strategy of Scientific and Technological Development; Report on the implementation of the Education Development Strategy for the period 2016-2021; Report on the implementation of the Culture Development Strategy 2017-2022; Report on the implementation of the Culture Development Strategy until 2035; Report on the implementation of the Strategy for the Development of Small and Medium Enterprises 2016-2020.
publication on line is rudimentary, as is the elaboration of reports on the implementation of strategies. The quality of reports is mostly poor, as they do not contain information on progress towards outcomes and objectives.

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

The overall the value for the indicator “Quality of government monitoring and reporting” is 2.

<table>
<thead>
<tr>
<th>Indicator 2.6.1. Transparency and legal compliance of government decision making</th>
</tr>
</thead>
<tbody>
<tr>
<td>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 clarity and stability of government policy making.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State level</td>
<td>FBiH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
</tr>
<tr>
<td>1. Adequacy of the legislative framework for government session procedures</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3/5*</td>
<td></td>
</tr>
<tr>
<td>2. Consistency of the CoG in setting and enforcing the procedures</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>2/4*</td>
<td></td>
</tr>
<tr>
<td>3. Timeliness of ministries’ submission of regular agenda items to the government session (%)</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>1/3*</td>
<td></td>
</tr>
<tr>
<td>4. Openness of the government decision making process</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3/4*</td>
<td></td>
</tr>
<tr>
<td>5. Perceived clarity and stability of government policy making by businesses (%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0/4**</td>
<td></td>
</tr>
</tbody>
</table>

**Total**

59 Sample draft laws:

- State: Rules of Procedure of the Council of Ministers of BiH, Official Gazette of BiH. CoM No. 107/03 of 3 July 2003; Uniform Rules for Legislative Drafting in the Institutions of Bosnia and Herzegovina, Official Gazette of BiH Nos. 11/05, 58/14, 60/14, 50/17 i 70/17 – Corrigendum; Rules for consultation in legal drafting, Official Gazette of BiH No. 05/17 of 20 December 2016.

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

59 Sample draft laws:
legal framework at all levels clearly establishes the requirements and functions in relation to preparation and organisation of government sessions. It ensures review and checks of items submitted to the Government and the legal scrutiny of proposals, but it does not provide a mandate to a CoG body to ensure policy coherence and alignment among government priorities or authorisation to return proposals if they require substantive adjustments or are inconsistent with government priorities.

A review of samples of draft laws at all levels of the administration showed that government institutions had performed formal legal and financial scrutiny to varying degrees. For example, at the State level, the dossier of one of the provided sample laws was incomplete, while in the RS, one of the sample law dossiers was incomplete, with no opinion from the MoF.

While deadlines are established at all levels for submission of documents before deliberation at the sessions of the Government, it was not possible to assess the timeliness of the submission of ministries' opinions to the Government sessions, as the required information was not provided, except for the RS, where this data is available. Analysis of the data provided shows that, in the RS, during the last quarter of 2020, 655 of the 670 submitted items arrived on time (98%). This is similar to the rate in 2019, when 659 items out of 672 arrived in a timely manner, allowing sufficient time for final checks and preparation.

All levels of the administration communicate government decisions after the sessions, through either press conferences or publication on government websites. The minutes of government sessions are distributed to all participants, and they are formally approved in the next government session. The agendas of government sessions are made available publicly by the relevant bodies at all levels. In the RS, the agenda is actually published before the start of the government session, albeit only a few hours before the meeting. However, public availability of details of all government decisions is ensured only at the State level, where a summary of every decision of the Government is provided along with the indication of the next steps based on the decisions of the CoM. Government decisions are also published in the Official Gazette of the Republic of Srpska.


The following draft laws were submitted:

- State level: Draft Law on Amendments to the Law and Court Fees in Proceedings before the Court of Bosnia and Herzegovina; Draft Law on Amendments to the Law on Misdemeanours; Proposal of the Law on Amendments to the Law state aid system in BiH; Proposal of Law on Amendments to the Law on Salaries and Other Remunerations in Judicial and Prosecutorial Institutions of Bosnia and Herzegovina; Proposal of Law on Interim Measures in the Work of Judicial and Other Bodies of BiH during a State of Natural or Other Disaster.
- FBiH: Law on Amendments to the Law on Protection Against Domestic Violence; Proposed Law on Amendments to the Law on Companies; Draft Law on FBiH Entrepreneurial Infrastructure; Law on Implementation of Court Decisions; Bankruptcy Law.

The relevant government websites have been checked.

This information is based on the findings of the assessment interviews with government institutions at all levels, as well as review of government websites before sessions.
Gazettes. However, the Official Gazettes do not provide access to all types of decisions (for example, decisions that are not normative by nature and/or relative to a specific policy or programme).

Overall, the level of perceived clarity and stability of government decisions in BiH is low. According to the 2021 Balkan Barometer survey, only 25.5% of BiH businesses considered that the laws and regulations affecting them had been clearly written, were not contradictory and did not change frequently.

Figure 1. Perceived clarity and stability of government policy making by businesses, 2017-2021

Notes: Responses refer to the percentage of respondents who replied "strongly agree" or "tend to agree" to the following question: "Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently."


Conclusion

The legal framework and responsibilities for preparing government sessions and ensuring legal and financial scrutiny are established within the relevant regulatory frameworks at all levels of the administration. However, in practice, legal and financial scrutiny of policy proposals at the final stage of the decision-making process is not carried out fully and consistently. No CoG body in BiH reviews proposals to check their coherence and consistency with government priorities and previously announced policies. Furthermore, no CoG institution has been authorised to send back draft proposals if the content or the package is inadequate. The agendas of meetings of the CoM and the governments of the FBiH, RS and BD are made available publicly.
Principle 7: The parliament scrutinises government policy making.

The overall value for the indicator “Parliamentary scrutiny of government policy making” is 3.

<table>
<thead>
<tr>
<th>Indicator 2.7.1. Parliamentary scrutiny of government policy making</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State level</td>
<td>FBiH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
</tr>
<tr>
<td>Sub-indicators</td>
<td>Points</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5/5*</td>
<td></td>
</tr>
<tr>
<td>2. Completeness of supporting documentation for draft laws submitted to the parliament</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3/3*</td>
<td></td>
</tr>
<tr>
<td>3. Co-ordination of governmental and parliamentary decision making processes</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1/2*</td>
<td></td>
</tr>
<tr>
<td>4. Systematic review of parliamentary bills by government</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0/1*</td>
<td></td>
</tr>
<tr>
<td>5. Alignment between draft laws planned and submitted by the government (%)</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1/2*</td>
<td></td>
</tr>
<tr>
<td>6. Timeliness of parliamentary processing of draft laws from the government (%)</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1/2*</td>
<td></td>
</tr>
<tr>
<td>7. Use of extraordinary proceedings for the adoption of government sponsored draft laws (%)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0/5*</td>
<td></td>
</tr>
<tr>
<td>8. Government participation in parliamentary discussions of draft laws</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2/2*</td>
<td></td>
</tr>
<tr>
<td>9. Basic parliamentary scrutiny of the implementation of policies</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>1/2*</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>14/24</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

There is no single legislative body in BiH with countrywide rights and responsibilities. The relations between the executive and legislative branches (the House of Representatives and the House of Peoples at the State level; the Parliament of the FBiH and the House of Peoples of FBiH; the National Assembly of Republika Srpska; the Brčko District Assembly - jointly referred to as “the Parliaments” for the sake of

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63 Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.
report) are regulated through the respective RoPs of the CoM of BiH and the Governments, the Laws on Government and the RoPs of the Parliaments.

Overall, the regulatory framework for conducting parliamentary scrutiny of government policy making is in place at all levels of the administration. The RoPs of the parliaments enable the exercise of the oversight functions of the executive branch, mostly through parliamentary questions (oral or written) and through regular government activity reports as/when requested by the parliaments.

At all levels of the administration, draft laws submitted to the parliament must be accompanied by explanatory memoranda. The submitted package should provide information concerning the constitutional basis and rationale for the initiation of the draft law, the principles of the preparation of the draft law, as well as information on estimated costs and financial resource requirements. A review of a sample of five draft laws submitted by the administrations to their respective parliaments showed that the above formal requirements have been fully respected at all levels.

Overall, the rules and requirements for preparing new legislation are largely the same for all of the parliaments and governments.

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65 The RoP of the House of Representatives of BiH, Articles 140 and 159; the RoP of the House of Representatives of the FBiH, Articles 116 and 117; the RoP of the National Assembly of the RS, Articles 243-247 and 261-276; the RoP of the Assembly of BD, Articles 106 and 138-140.

66 Ibid.

67 The following draft laws were submitted:

- State level: Proposal of Law on Amendments to the Law on Salaries and Other Remunerations in Judicial and Prosecutorial Institutions at the level of BiH; Proposal of the Law on Amendments to the Law on Misdemeanours; Proposal of Law on Interim Measures in the Work of Judicial and Other Bodies of BiH during a State of Natural or other Disasters on the territory of BiH; Proposal of Law on Amendments to the Law on Court Fees in Proceedings before the Court of BiH; Proposal of Law on Amendments to the Law on State Aid System in BiH
- FBiH: FBIH Law on Advocacy (law on legal profession); Draft Law on Amendments to the Law on Road Transport; Law on Amendments to the Law on Principles of Local Self-Government; Draft Law on Entrepreneurial Infrastructure in the FbIH; Draft Law on Experts in the FBIH.
- RS: Draft Law on the Acquisition of the Status of an Artist and an Expert in Culture; Draft Law on Free Zones of RS; Draft Law on the City of Derventa; Draft Law on Amendments to the Law on Territorial Organization of the RS; Draft law on hail protection.
- BD: Law on Associations and Foundations; Law on the Protection of the Rights of Persons Belonging to National Minorities; Law on Public Events; Law on Amendments to the Law on Road Transport; Law on Amendments to the Law on Inspections.

68 The drafting rules and guidelines followed by the parliaments and the governments of BiH are largely the same. At the State level, the requirements for law drafting are established in the RoP of the CoM (Article 66), the Unified Rules for Legislative Drafting in the Institutions of BiH (Article 60), the RoP of the House of Representatives (Article 95), and the RoP of the House of Peoples (Article 105). In the FBIH, the requirements are set out in the RoP of the Government (Article 26), the RoP of the House of Representatives (Article 164) and the RoP of the House of Peoples (Article 156). Also, the Rules and Procedures for Draft Laws and Other Regulations of the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of BiH No. 71/14, adopted by both Houses of the Assembly are applicable to both the Government and the Houses of the Assembly. In the RS, the requirements set out in the RoP of the Assembly (Article 188) are identical to those in the Rules for drafting laws and other regulations of the RS, No. 01-330 / 14 of 5 March 2014 (Article 41). Similarly, the Decision on the Procedure for Making Regulations in Accordance with the
The governments at all levels participate in the discussion of new draft laws initiated within the parliaments. These discussions are stipulated by the relevant legislation. The work programmes of the parliaments are planned on the basis of the legislative commitments set out in the respective GAWPs. Planning on this basis is a standard requirement and practice at all levels of the administration, except for the State. However, the co-ordination of work between the respective services of the parliaments and the CoM and the governments of the Entities and the BD takes place on an ad hoc and informal basis, with no regular formal meetings held between the relevant administrative bodies of the parliaments and the executive branches to co-ordinate, plan and prepare for the legislative work.

Review of a sample of the three most recent laws initiated by MPs in 2020 showed that the Governments of the RS and the BD provided their opinions regarding all three laws, while the FBiH Government provided its opinion for only one of the three sample proposals. No sample was provided for assessment at the State level.

Analysis of available data on the alignment of laws planned and submitted to the parliaments by the CoM and the governments of the Entities and the BD show that around 70% of laws submitted by the governments arose from planned commitments from their respective GAWPs. The only exception is the State level, where none of the four laws submitted by the CoM in 2020 were originally planned. Also, while the FBiH and RS parliaments have the practice of considering all draft laws in a timely manner without

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Rules of Procedure on the Work of the Assembly of the Brčko District of BiH No. 01-02-589/12) of 10 July 2012 (Article 3) prescribes the use of the Uniform Rules for Drafting Laws and Other Regulations of the Brčko District of BiH No. 01-02-512 / 12 of 18 January 2012.

69 The RoP of the House of Representatives of BiH, Article 97; the RoP of the House of Representatives of the FBiH, Articles 160 and 165; the RoP of the National Assembly of the RS, Article 189; the RoP of the Government of BD, Article 37 and the RoP of the BD Assembly, Article 34.

70 While Article 65 of the RoP of the House of Representatives of BiH and Article 55 of the RoP of the House of Peoples of BiH prescribe this requirement, SIGMA was not able to verify through evidence that this provision was adhered to in 2020 or 2021.

71 The following sample laws initiated by MPs were provided:

- **FBiH**: Proposal of Law on Amendments to the Law on Tax Administration of the Federation of Bosnia and Herzegovina No. 02-02-633/20 of 13 March 2020; Proposal of Law on Amendments to the Law on Conflict of Interest in Government Bodies in FBiH No. 02-02- 2052/20 of 9 December 2020; Proposal of Law on Amendments to the Law on Protection of the Population from Infectious Diseases No. 02-02-2080/20 of 15 December 2020.
- **RS**: Draft Law on Amendment of the Law on Labour Relations in State Authorities (Nedeljko Ćubrilović); Draft Law on Amendments to the Law on the Status of Local Government Units (Nedeljko Ćubrilović); Draft law on amendments to the Law on Contributions (Jelena Trivc).
- **BD**: Draft Law on Amendments to the Law on Incentives in the Economy of the Brčko District of BiH, case number 02-000185/20; Law on Amendments to the Law on Holidays of the Brčko District of BiH, case number 02-000149/20; Draft Law on Amendments to the Law on Health Care in the Brčko District of BiH, case number 02-000012/20.

72 In the FBiH, 9 out of the 35 submitted proposals in 2020 did not originate from the GAWP (74.3%). In the RS, 13 out of 55 submissions were not planned ahead (72%). In the BD 6 out of the 20 submitted drafts in 2020 were not identifiable in the corresponding GAWP (70%).
significant delay\textsuperscript{73}, this was not the case for the State\textsuperscript{74}. This aspect could not be assessed for the BD due to lack of information\textsuperscript{75}.

The share of government-sponsored laws adopted in 2020 through the urgent procedure was very high at the State level (100%, as all three laws sponsored by the CoM were adopted in 2020 through extraordinary procedures) and in the FBiH (83.3%, with five out of six government-sponsored laws adopted urgently), high in the RS (30.9%, with 17 out of 55 adopted government-led laws adopted in urgent procedure) and moderately high in the BD (10%, with two out of the 20 laws submitted by the Government processed in extraordinary manner).

At all levels, the RoPs of the parliaments\textsuperscript{76} require that the governments designate government members to present the government-sponsored draft laws at plenary sessions of the parliaments and during committee meetings. Overall, representatives of the executive branch participate in the discussions of draft laws in the parliaments\textsuperscript{77}.

In 2020, at the State and RS levels, reports on the implementation of several laws were discussed by the relevant parliaments\textsuperscript{78}, but it was not possible to assess this practice in the FBiH and the BD because their administrations did not provide any information on parliamentary discussions on law implementation.

**Conclusion**

The regulatory framework and the required procedures for scrutiny of the CoM of BiH and governments of both entities and the Brčko District by the parliaments have been adequately defined and established at all levels of the BiH administration. The executive branches mostly adhere to the requirements when submitting their proposals or participate in the work of parliaments. Regular co-ordination between the administrations of the executive level and of the parliaments is ad hoc and mostly informal. The extensive use of the urgent procedure for the approval of laws and the limited discussion on the implementation of laws and policies is a major issue in most levels of the administration.

\textsuperscript{73} In the FBiH, out of 20 proposals submitted to the Assembly by the Government in 2019, only 2 were not processed fully within a year from their date of submission (90% timeliness). In the RS, all 69 drafts proposed in 2019 were processed within a year of their submission (100% timeliness).

\textsuperscript{74} Of the five laws submitted to the Parliament by the CoM of BiH in 2019, only one was fully processed within a year of their submission.

\textsuperscript{75} The required information on laws submitted to the Assembly by the Government in 2019 was not available.

\textsuperscript{76} The RoP of the House of Representatives of BiH, Article 108; the RoP of the House of Representatives of the FBiH, Article 51; the RoP of the National Assembly of the RS, Article 284; the RoP of the Government of the BD of BiH, Article 54; and the RoP of the Assembly of the BD of BiH, Article 87.

\textsuperscript{77} The respective parliaments do not have detailed statistics on the participation of government representatives in committee meetings or plenary sessions. However, this practice was confirmed during the assessment interviews with representatives of the parliaments and CoG institutions.

\textsuperscript{78} Based on review of the website of the BiH Assembly, it has been demonstrated that reports on policy implementation have been adopted (e.g. Report on the implementation of the Strategic Plan for Rural Development of Bosnia and Herzegovina [2018-2021] and the Report on personal data protection in Bosnia and Herzegovina for 2019). As for the RS, the following sample reports demonstrate the practice: Report of the Fiscal Council of the Republika Srpska on the implementation of the Law on Fiscal Responsibility in the Republika Srpska for 2019; Information on the implementation of the Strategy for the Suppression of Domestic Violence of the Republika Srpska; Conclusion on the adoption of the Report on the implementation of the strategy of scientific and technological development of the Republic of Srpska 2017-2021; Knowledge for development for the period 1 October 2017 to 30 June 2019, October 2019; Conclusion on the adoption of the Information on the implementation of the Traffic Safety Strategy on the roads of the Republic of Srpska 2013-2022 in 2018, April 2019; the Conclusion on the adoption of the Information on the implementation of the Strategy for the Suppression of Domestic Violence of the Republika Srpska (2014-2019) for 2018, October 2019.
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 overall value for the indicator “Adequacy of organisation and procedures for supporting the development of implementable policies” is 2.

**Indicator 2.8.1. 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>State level</th>
<th>FBiH</th>
<th>RS</th>
<th>BD</th>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-indicators</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1. Adequacy of the regulatory framework for effective policy making</td>
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<td>1</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>2. Staffing of policy development departments (%)</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td></td>
<td></td>
<td>1/2*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Adequacy of policy-making processes at ministry level in practice</td>
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<td>0</td>
<td>0</td>
<td>2</td>
<td></td>
<td></td>
<td>0/6*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total*</td>
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<td>3/12</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

Due to the specificities of the constitutional set-up, the responsibility for policy development in the different BiH jurisdictions and sectors of the economy is designated to various ministries at the different levels, the State, the two Entities and the BD.

The Law on Ministries at the State level establishes the core functions, roles and responsibilities of all ministries. The responsibilities and functions of ministries of the FBiH and RS are also defined by law.

On the State Level, the Ministry of Justice, in addition to its core responsibilities, has also been designated by legislation as responsible for carrying out other tasks, such as those that "are not within the competence of other ministries"82, while the Ministry of Foreign Trade and Economic Relations (MoFTER) and the Ministry of Civil Affairs have been given responsibility for carrying out certain tasks that "relate to defining basic principles, co-ordinating activities and harmonising plans of the Entity authorities and defining a strategy at the international level" in specified fields83. The existing regulatory framework does not provide further details on how the two ministries should exercise these specific functions in terms of policy development.

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

80 Law on Federation Ministries and other Bodies of the Federation Administration, of 21 October 2002, Official Gazette of BiH No. 58/02.

81 Law on the Republic Administration December 2008, Articles 16-31, Official Gazette of the RS No. 118/08

82 Law on Ministries and other Bodies of Administration of BiH, Article 13.

83 Law on Ministries and other Bodies of Administration of BiH, Articles 9 and 15.
The internal organisation of the State-level, FBiH and RS ministries described in their rulebooks consists of sectors and sub-divisions, each of which is responsible for a specific field\textsuperscript{84}. Policy departments lead the policy development process, and departments of legal affairs support the process of drafting regulations. However, a review of a sample of ministerial rulebooks showed that not all tasks and responsibilities have been defined at the FBiH, particularly those related to managing the EI process\textsuperscript{85}.

The structure and organisation of internal departments and units in the BD have been established through the organisational plan of the BD. The inspection organisation is an integral part of the BD administration\textsuperscript{86}.

The fact that ministries do not delegate ultimate responsibility to subordinate bodies could only be confirmed for the RS. In the BD, the policy-development function is placed within policy departments.

At the State, FBiH and RS levels, the responsible policy sector/unit in ministries leads the overall policy development process, while the departments responsible for legal affairs support the process by preparing draft legal texts of regulations. Ministers in the State\textsuperscript{87}, the FBiH\textsuperscript{88} and the RS\textsuperscript{89} are responsible for the policy-development process. They also have ultimate responsibility for submitting policy proposals to the relevant government bodies for final approval. However, since no complete samples were submitted by the State level, the FBiH and the RS, the practice of policy development within ministries could not be assessed.

Ministries in the FBiH have additional internal structures, the Collegiums, which are intended to play a central role in policy planning and policy development. However, these structures do not function properly across all ministries\textsuperscript{90}.

Ministries at the State level, in the FBiH and the RS do not have established internal rules and procedures for developing policies and drafting legislation. For example, the relevant minister determines the initiation of a public consultation or an interministerial consultation on a case-by-case basis, depending on the advice of the division/department or working group responsible for the development of the policy proposal concerned. Consultation and involvement of all relevant departments within a ministry during policy development are not ensured at any level\textsuperscript{91}.

The proportion of staff working on policy development within ministries has been assessed as adequately ensured at the RS\textsuperscript{92} (more than 30% of the total number of staff). This proportion suggests that the RS ministries are oriented in general towards policy development. Information on the number of staff working in the State-level and FBiH ministries was not provided to SIGMA, so it was not possible to assess the

\textsuperscript{84} The rulebook of the MoFTER was provided to SIGMA during the assessment.

\textsuperscript{85} This information is based on an analysis of the rulebooks for the Federal Ministry of Environment, the Federal Ministry of Development, Entrepreneurship and Crafts and Tourism and the Federal Ministry of Agriculture, Water Management and Forestry. For the RS, rulebooks were provided for the Ministry of Agriculture, Forestry and Water Management, the Ministry of Economy and Entrepreneurship, the Ministry of Health and Social Welfare and the Ministry of Spatial Planning, Construction and Ecology.

\textsuperscript{86} Organisational Plan of the Mayor’s Office of the BD.

\textsuperscript{87} Law on Ministries and other Bodies of Administration of BiH, Article 20.

\textsuperscript{88} The RoP of the FBiH Government, Article 12.

\textsuperscript{89} The RoP of the RS Government, Article 6.

\textsuperscript{90} This finding is based on the fact that no evidence regarding the functioning of these Collegiums was provided. The 2017 assessment shows that these Collegiums did not function. Since the FBiH administration did not arrange interviews with representatives from line ministries, the issue could not be further analysed.

\textsuperscript{91} This finding is based on the fact that no evidence regarding internal decision-making for policy development and law-making was provided. It was also confirmed during interviews with representatives from line ministries from State Level and RS.

\textsuperscript{92} The percentages of staff working in policy development per ministry in the RS are as follows: Ministry of Special Planning, Construction and Ecology – 52%; Ministry of Agriculture, Forestry and Water Management – 57%; Ministry of Industry, Energy and Mining – 86%; and Ministry of Health and Social Welfare – 62%. 
adequacy of staff resources working on policy development. Incomplete information was provided on the number of staff working in policy departments at the BD level.

Conclusion

The regulatory and procedural framework required for effective policy making within ministries has substantial shortcomings at all levels. Ministries at all levels operate without clear internal rules for policy development. The appropriate ratio of staff in policy-development departments could only be verified for the RS, since the State level, FBiH and BD did not provide the relevant information.

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 overall value for the indicator “Government capability for aligning national legislation with the European Union acquis” is 3.

<table>
<thead>
<tr>
<th>Indicator 2.9.1. Government capability for aligning national legislation with the European Union acquis</th>
</tr>
</thead>
<tbody>
<tr>
<td>This indicator measures the adequacy of the legal framework for the acquis alignment process, the government’s consistency in using 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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>FBIH</td>
<td>RS</td>
<td>BD</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sub-indicators</td>
<td>Points</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Adequacy of the regulatory framework for the acquis alignment process</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5/5*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Use of tables of concordance in the acquis alignment process (%)</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>1/2*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Translation of the acquis into the national language</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2/2*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Acquis alignment commitments carried forward (%)</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>1/4*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Implementation rate of legislative commitments for acquis alignment (%)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0/4*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total*</td>
<td>9/17</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS.

The SAA between the EU and BiH has been in force since 2015. Given the obligation to ensure that future legislation is compatible with the acquis and to better co-ordinate EI processes between the different

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

94 The SAA was signed in 2008 and entered into force on 1 June 2015, Official Gazette of BiH No. 23/11.
levels of the administration, in January 2016, the CoM created a new co-ordination structure, the EI Co-ordination System\textsuperscript{95}, which is assessed as not functioning as fully as expected\textsuperscript{96}.

At the State level, the DEI is responsible for co-ordinating the required EI activities, including the process of harmonisation with EU legislation\textsuperscript{97}. All legislative proposals dealing with legal harmonisation must bear the letters “EI” on the first page. EI-related proposals are submitted to the DEI for its opinion prior to submission to the CoM for final approval\textsuperscript{98}. The DEI also has responsibility for overall EI co-ordination across all levels of the administration.

At the FBIH level, the Office for EI is responsible for the overall co-ordination of the EI process\textsuperscript{99}, while the OLFBIH is responsible for ensuring the conformity of national legislation with the acquis\textsuperscript{100} and the quality of the Tables of Concordance\textsuperscript{101}. However, the RoP do not stipulate that the Office for EI needs to be involved in the interministerial consultation process. It is thus not able to effectively monitor EI-related work of the FBIH administration.

In the RS, the Ministry of European Integration and International Co-operation is responsible for the overall co-ordination of the EI process, including the legal harmonisation with the acquis\textsuperscript{102} and the assessment of the Tables of Concordance\textsuperscript{103}. The Legislative Secretariat is responsible for ensuring conformity with national legislation\textsuperscript{104}. In the BD, the EI Office co-ordinates the EI process\textsuperscript{105}. The Legislative Office is tasked with reviewing all new policy proposals and issuing opinions on their conformity with the acquis\textsuperscript{106}.

Since EU legislation is available in Croatian, one of the official languages of BiH\textsuperscript{107}, government institutions across all levels of the administration have access not only to the English versions but also to the official Croatian versions of the EU Directives and regulations for transposition\textsuperscript{108}.

Tables of Concordance are required by regulations at the State\textsuperscript{109}, FBIH\textsuperscript{110}, RS\textsuperscript{111} and BD\textsuperscript{112} levels. Such tables are consistently produced for all EI transposition commitments at the RS level and in most cases at the State level and the BD. However, at the FBIH level, no transposition case was submitted for

\textsuperscript{95} Decision on the Co-ordination System of the EI process in BiH, adopted by the CoM on 23 August 2016, Official Gazette of BiH No. 72/16.
\textsuperscript{96} The functioning of this system is discussed under Principle 2.
\textsuperscript{97} The Law on the CoM of BiH, Article 23.
\textsuperscript{98} The RoP of the CoM, Article 31.
\textsuperscript{100} The RoP of the FBIH Government, Article 27.
\textsuperscript{101} The RoP of the RS Government, Article 17.
\textsuperscript{102} Idem.
\textsuperscript{103} Law on Public Administration of the BD, Article 30a.
\textsuperscript{104} Uniform Rules for the law-making process of the BD, Article 82.
\textsuperscript{105} The State level Law on Administration and the RoP recognise Croatian as an official language. The Constitutions of the RS and the FBIH recognise it also, as does the Statute of the BD.
\textsuperscript{106} The assessment did not verify whether Bosnian and Serbian versions of the acquis would be available in time for the transposition process.
\textsuperscript{107} DEI Decision on alignment procedures of Bosnia and Herzegovina legislation with EU acquis, Article 4.
\textsuperscript{108} Decree on the process of the alignment of the FBIH legislation with the EU acquis, Article 2 and 4.
\textsuperscript{109} RS Decision on the Procedure of Harmonising Legislation of the Republika Srpska with the acquis.
\textsuperscript{110} The BD Decision on Procedures in the Process of Harmonisation of Legislation of the Brčko District of BiH with the EU Law, Article 7.
assessment. The practice of using Tables of Concordance by the FBiH ministries could therefore not be confirmed.

A countrywide EI plan does not exist, and the Programme of Integration (meant to cover all levels) started to be developed at the end of 2020 but has not yet been adopted.

The RS has adopted its own EI action plan. It shows a high level (about 36%) of EI commitments not completed as planned in 2020 and thus carried forward to 2021. Since no report on implementation of the EI plan was provided for the assessment, the actual implementation rate of EI commitments in 2020 could not be determined.

Since no countrywide EI plan exists, it is not possible to track the implementation of EI commitments across all levels. The percentage of legislative commitments carried forward to the following year and the implementation rate of EI-related measures could not be determined for the whole country.

This lack of EI planning and related reporting means that the EI process is not transparent. This negatively affects the ability of the responsible institutions to co-ordinate the EI process and achieve considerable and evidenced progress in this area. It also reduces the possibilities of the CoMs and governments to steer the process more effectively. Without more up-to-date information, it is not possible to (re)allocate resources and adjust priorities based on practical evidence and recently verified information.

**Conclusion**

The legal framework for EI co-ordination is defined at all levels, with exception of the FBiH where the Office for EI is not involved in the interministerial consultation process. Tables of Concordance are required by regulation and are generally developed, except at the FBiH level. Since there is no overall EI plan, it is not possible to calculate the percentage of legislative commitments carried forward to the following year and the implementation rate of EI-related measures. It is thus not possible to assess progress regarding implementation of EI commitments.
Principle 10: The policy-making and legal-drafting process is evidence based, and impact assessment is consistently used across ministries.

The overall value for the indicator “Evidence-based policy making” is 2.

### Indicator 2.10.1. 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 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
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<td></td>
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<td></td>
<td>2</td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>State level</strong></td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>FBiH</strong></td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>RS</strong></td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>BD</strong></td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>111</td>
<td>10/28</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

Due to the complex constitutional arrangements, BiH does not have a unified, countrywide approach to policy making. Each level of the administration has its own separate system and procedures.

The requirements for RIA are embedded in the policy-making systems of the State Level\textsuperscript{112}, FBiH\textsuperscript{113}, the RS\textsuperscript{114} and the BD\textsuperscript{115}. The State level introduced the requirement in 2017 and the BD in 2018. These mark important improvements compared to the situation in 2017.

\textsuperscript{111} Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

\textsuperscript{112} Uniform rules for legislative drafting in the institutions of BiH, Annex 1.

\textsuperscript{113} Regulation on Regulatory Impact Assessment.

\textsuperscript{114} Decision on the implementation of the regulatory impact assessment process in legislative drafting.

\textsuperscript{115} Decision of the Impact Assessment Procedure and methodology when making regulations.
The RIA systems on all levels make a distinction between “comprehensive RIA” and “short RIA”\textsuperscript{116}. In practice, comprehensive and thus full RIAs are developed only sporadically\textsuperscript{117}, and the RIA systems thus cannot provide essential information for policy development, law making and, consequently, the EI process.

Quality scrutiny for RIA at the State level falls primarily to the GS of CoM of BiH, but also depends on involvement of the Legislative Office (LO), MoF and other control bodies\textsuperscript{118}. At the FBiH, the responsibility for RIA scrutiny was transferred from the GS to the Office for Legislation (OL) FBiH in 2020\textsuperscript{119}. Within the RS, the Ministry of Economy and Entrepreneurship is responsible for RIA quality scrutiny\textsuperscript{120}. Within the BD, this responsibility falls to the LO BD and various control bodies\textsuperscript{121}. None of these RIA scrutiny bodies has a formal right to return RIAs of low quality to the originating ministry. Crucially, since comprehensive RIAs are hardly ever developed in practice, the RIA quality scrutiny process and its effectiveness could not be assessed.

The State level and the RS work with formal RIA guidelines that are available online\textsuperscript{122} and explain the process and requirements for conducting RIA during the policy-development process. These guidelines, however, are of limited value to apply RIA since they lack practical examples or do not explain relevant RIA tools. While the FBiH did have comprehensive guidelines, these have not been maintained with the transfer of the responsibility for RIA to the OL FBiH. Neither the State level nor BD work with comprehensive RIA guidance that explains how RIAs should be developed and what kind of methodological approaches and tools should be used.

At the State, FBiH, RS and BD levels, regulations require that estimates be developed of the expected costs of new policy proposals on the state budget. At the State level, the MoFT conducts scrutiny with regard to the cost estimates and the demands on the budget\textsuperscript{123}. Both Entities require an assessment of the impacts on the state budget for each proposal\textsuperscript{124}. The MoF of each Entity is responsible for quality control of the estimates of budget impacts provided by ministries. In the BD, fiscal impact analysis is required by regulations, and the Finance Directorate is responsible for quality control\textsuperscript{125}. Analysis of five sample proposals for each level showed that quality scrutiny is not always ensured. Only at the BD did the Finance Directorate provide its opinion on all five samples.

A sample of five law proposals for each administrative level was analysed to assess the quality of \textit{ex-ante} policy analysis through Impact Assessment. Since RIAs were not available, this analysis had to be

\textsuperscript{116} Terms such as “preliminary”, “shortened” or “abbreviated” RIAs are used in the BiH administrations to indicate the initial or basic-level analysis that is normally conducted at an early stage of policy development

\textsuperscript{117} This finding is based on the fact that no full/comprehensive RIAs were submitted for the assessment. This was also confirmed during interviews with representatives of all four levels.

\textsuperscript{118} Uniform rules for legislative drafting in the institutions of Bosnia and Herzegovina, Articles 30 and 31.

\textsuperscript{119} Regulation on Regulatory Impact Assessment, Article 11.

\textsuperscript{120} Rules of Procedure of the Government of the Republic of Srpska, Article 17.

\textsuperscript{121} Decision of the Impact Assessment Procedure and methodology when making regulations, Article 21.

\textsuperscript{122} State level:

RS:
http://www.regodobrenja.net/admin/files/docs/Metodoloski%20prirucnik%20za%20procjenu%20uticaja%20propisa%20i.pdf

\textsuperscript{123} Rules of Procedure on the work of the Council of Ministers of BiH, Article 31.

\textsuperscript{124} FBiH: RoP of the FBiH Government, Article 2 and Law on Budget; Article 8; RS RoP of the RS Government, Article 17.

\textsuperscript{125} Unified Rules and Procedures for Drafting Legal Acts of BD, Article 76.
conducted based on the Explanatory Memoranda that are developed for law proposals by each administration. The quality of analysis supporting the new policy proposals was found to be very limited across all levels. While it was most often clear why a proposal had been developed, the description of the situation lacked practical quantified data, such as presentation of sectors and affected organisations. Alternative options were not considered. The likely impacts on the state budget were not adequately analysed. Similarly, implementation and enforcement arrangements of the new proposals were not presented. Monitoring of implementation and future evaluation were not addressed either.

**Conclusion**

Despite RIA requirements and availability of relevant methodologies and guidelines at all levels, the overall quality of the analyses supporting policy proposals is very limited across all levels of the administration. The requirement to assess the financial implications of policy proposals has been regulated at all levels of the administration, but it is not always implemented consistently.

**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 overall value for the indicator “Public consultation on public policy” is 1. The overall value for the indicator “Interministerial consultation on public policy” is 3.

**Indicator 2.11.1. 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 draft laws.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State level</strong></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FBiH</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>RS</strong></td>
<td></td>
<td></td>
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<tr>
<td><strong>BD</strong></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bosnia and Herzegovina</strong></td>
<td></td>
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<td></td>
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<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Adequacy of the regulatory framework for an effective public consultation process</td>
<td>5/10*</td>
</tr>
<tr>
<td>2. Quality assurance of the public consultation process</td>
<td>0/3*</td>
</tr>
<tr>
<td>3. Consistency in publishing draft laws for written public consultation</td>
<td>1/4*</td>
</tr>
<tr>
<td>4. Test of public consultation practices</td>
<td>2/24*</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>8/41</td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

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126 Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-41=5.
Public consultation is regulated through several laws and regulations at the State, FBiH, RS and BD levels. The BD is considered to have a nearly complete regulatory framework covering the process, but it lacks the requirement to notify stakeholders in advance about planned consultations. The framework for the other three levels shows shortcomings regarding notification requirements and reporting on the consultation process itself and publication of these reports. Only the State Level and the FBiH have established dedicated online consultation platforms.

Scrutiny of the quality of the public consultation process is not established at any of the levels of the administration. While within the FBiH the GS is expected to perform this role but does not implement it, the other three administrations have no organisation mandated to assess whether the requirements for public consultations are implemented and whether the outcomes of the consultation process are properly addressed.

Analysis of the performance of four line ministries regarding the regularity of conducting public consultation shows that the practice is applied inconsistently when developing new legal proposals. This is the case even though the number of developed proposals was very low. For the State level, there was consultation on only one law of the three that had been developed. For BD, there was only one relevant proposal and there was no consultation on it.

The shortcomings identified in the regulatory framework and the lack of quality scrutiny for public consultation are reflected in the practice of conducting public consultation. All administrations show a clear lack of reporting on the consultation process and its outcomes. Information about consultation provided in Explanatory Memoranda is very limited. Consultation appears to be limited to online publication of draft texts. This shows a lack of proactive outreach by the administration to include less represented stakeholders. There is no practice to inform stakeholders about upcoming consultations. The potential of public consultation to inform and improve policy development and law-making is thus not tapped effectively.

127 Rules for consultations in the process of legal drafting.
131 www.ekonsultacije.gov.ba
132 www.javnarasprava.ba.
134 The practice of conducting public consultation was assessed per level for the four ministries covering specific policy areas: the ministry responsible for agriculture; the ministry responsible for trade/economy; the ministry responsible for the environment; and the ministry responsible for social affairs.
Indicator 2.11.2. 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 2021 indicator value

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
<th>State level</th>
<th>FBiH</th>
<th>RS</th>
<th>BD</th>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Adequacy of the regulatory framework for an effective interministerial consultation process</td>
<td>7/9*</td>
<td>7</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>2. Test of interministerial consultation practices</td>
<td>4/12*</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>135</strong></td>
<td><strong>6</strong></td>
<td><strong>6</strong></td>
<td><strong>7</strong></td>
<td><strong>11/21</strong></td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

The RoP of the CoM and the RoP of the governments of the FBiH, the RS and the BD regulate interministerial consultation. The respective regulations clearly set minimum duration for written interministerial consultation, the obligation to consult all affected government bodies, the obligation to inform the government about the outcomes of the consultation process (except for the FBIH Office for EU integration) and the obligation to inform the government about the outcomes of the consultation process.

While the requirements are generally well defined, analysis of the practice of interministerial consultation shows clear gaps. For example, even though it is a legal obligation at each level, none of the administrations has adopted the practice of developing summary reports about the interministerial consultation process that show how comments made by other administrative bodies were taken forward. With the exception of the BD, it is not always clear whether the deadlines for interministerial consultation were respected, whether consultation of all CoG bodies was always ensured before proposals were adopted, and whether other relevant administrative bodies were involved in the interministerial consultation process. As noted earlier, for the FBiH in particular, the Office for EI is not formally involved in the interministerial consultation process. This hampers its efforts to implement its tasks.

None of the administrations has established an effective mechanism for conflict resolution at the level of senior officials. This means that the political level can be required to address technical aspects of legislation which could be more effectively addressed on administrative and more technical levels.

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

136 Rules of Procedure on the Work of the Council of Ministers of BiH, Article 31; Uniform rules for legislative drafting in the institutions of BiH, Article 66; the Law on Ministries and other administrative bodies, Article 18.

137 Rules of Procedure of the Government of FBIH, Article 27; the Law on the organisation of administrative bodies, Article 21.


139 Rules of Procedure of the Government of BD, Article 30; Uniform Rules for the law-making process of the BD, Article 77.
Conclusion

The public consultation requirement is established in the regulatory frameworks for policy making across all levels of the administration. But the actual practice of public consultation on new policies across all levels is of limited quality, and reporting on outcome of public consultations is minimal. The overall oversight and quality control of the public consultation process is not clearly established at any of administrative levels. This means that it is not yet being used as a core element of policy making.

Interministerial consultation is regulated at all levels. Analysis of practice, however, indicates deviation from regulations, especially on the requirement to develop summary reports about the results of interministerial consultation processes.

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

The overall value for the indicator “Predictability and consistency of legislation” is 3. The overall value for the indicator “Accessibility of legislation” is 1.

<table>
<thead>
<tr>
<th>Indicator 2.12.1. Predictability and consistency of legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
<tr>
<td>Overall 2021 indicator value</td>
</tr>
<tr>
<td>State level</td>
</tr>
<tr>
<td>Sub-indicators</td>
</tr>
<tr>
<td>1. Availability of guidance documents on legal drafting</td>
</tr>
<tr>
<td>2. Quality assurance on legal drafting</td>
</tr>
<tr>
<td>3. Laws amended one year after adoption (%)</td>
</tr>
<tr>
<td>4. Perceived clarity and stability of government policy making by businesses (%)</td>
</tr>
<tr>
<td>5. Timeliness of adoption of mandatory bylaws (%)</td>
</tr>
<tr>
<td>Total 140</td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS. ** Country-wide data.

Separate regulatory frameworks, in place at each level of the administration, establish the rules and procedures for legislative drafting. The Unified Rules for Legislative Drafting in BiH Institutions provide guidance for legal drafting at the State level. In the FBIH, the guidance is included in the Rules and Procedures for the Drafting of Laws and Other Regulations. In the RS, the relevant guidance is included in the Rules for Drafting Laws and Other Regulations. Officials in the BD work on the basis of the Unified Rules and Procedures for Drafting Legal Acts of the BD. For each level individually, these rules define the

140 Point conversion ranges: 0-2=0, 3-4=1, 5-6=2, 7-8=3, 9-10=4, 11-13=5.
standards for the structure and style of legislation. They also stipulate the procedural requirements for preparing regulations. Only the guidance documents of the State Level\textsuperscript{141} and the RS\textsuperscript{142} are available to the public on line.

The scrutiny of legal quality is exercised by the LO CoM at State Level, the OL in the FBIH, the Secretariat for Legislation in the RS, and the LO in the BD. Analysis of samples of five draft law proposals per administration shows that the process for scrutinising legal quality is fully established and consistently implemented. Each institution responsible for scrutiny of legal quality issued its opinion on each of the five samples from its own administration.

The frequency at which laws are amended one year after adoption was low at the State level and in the FBIH and the BD. It was significantly higher in the RS. While the low rate of amendments could be a sign of inertia in the law-making process\textsuperscript{143}, a high amendment rate after one year could signal a lack of proper impact assessment and wide public consultation during the preparation of law proposals.

Businesses in BiH do not consider the laws and regulations affecting them to be clearly written and stable. According to the Balkan Barometer Survey in 2021, only 25.5% of businesses had a positive perception of the clarity and stability of government policy making\textsuperscript{144}. This marks a slight deterioration over time: it was 32% in 2017.

Analysis for the indicator “Timeliness of adoption of mandatory bylaws” shows that, for the State Level and the FBIH, none of the bylaws that were expected to be developed were adopted within the legally set deadline. For the RS, 9 out of 42 bylaws (21.4%) were adopted on time. For the BD, it was 5 out of 8 bylaws (62.5%). This indicates significant challenges across all levels in ensuring that all legal requirements and procedures are established and clear before a law is fully implemented.

\textsuperscript{141} http://www.mpr.gov.ba/biblioteka/zakoni/?id=9155 and http://www.mpr.gov.ba/web_dokumenti/Prirucnik%20za%20izradu%20pravnih%20propisa.pdf

\textsuperscript{142} https://www.vladars.net/sr-SP-Cyril/Politika/Правила%20за%20израду%20закона%20и%20других%20прописа%20Републике%20Србије_592694496.pdf

\textsuperscript{143} At the State level, the Parliament adopted only one fully new law in the period 2018-2020.

\textsuperscript{144} Respondents were asked to what extent they agree with the following statement: “Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently.” Of the respondents, 22% answered "tend to agree" and 3.5% answered "strongly agree".
**Indicator 2.12.2. 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>FBIH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Sub-indicators

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Adequacy of the regulatory framework for public accessibility of legislation</td>
<td>2</td>
</tr>
<tr>
<td>2. Accessibility of primary and secondary legislation in practice</td>
<td>2</td>
</tr>
<tr>
<td>3. Perceived availability of laws and regulations affecting businesses (%)</td>
<td>0</td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS. ** Country-wide data.

The regulatory framework for publishing legislation is weak at all levels. Only the types of legislation that need to be published and the medium for publication are regulated at the State Level146, the FBIH147, the RS148 and the BD149. The requirements do not cover key issues such as the procedures that need to be followed before legislation can be published, the deadlines for publication after submission of the documents and the responsibilities of the bodies submitting legislation for publication.

All four levels have established the practice of publishing legislation in their respective Official Gazettes. All primary and secondary legislation is available in a central registry at the State, FBIH, RS and BD levels150. However, for the State and the FBIH, which share the Official Gazette website, only the legislation adopted since 2009 is available in electronic form. Legislation adopted before 2009 is effectively unavailable to the public, as it can only be obtained for a fee153. The Official Gazettes of the RS154 and the

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145 Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.
146 Law on the Official Gazette of Bosnia and Herzegovina.
147 Law on the Official Gazette of FBIH and Rules and Procedures drafting laws and other legislation of FBIH.
148 Law on publication of laws and other regulations and Rules for drafting laws and other regulations.
149 Statute of the Brčko District; Law on the Official Gazette of BD; Uniform Rules for the law-making process of the BD; Rules of Procedure of the Government of BD.
150 For both State level and FBIH: [http://sluzbenilist.ba](http://sluzbenilist.ba).
151 [https://www.slglasnik.org](https://www.slglasnik.org).
152 [https://skupstinabd.ba/ba/zakon.html](https://skupstinabd.ba/ba/zakon.html).
BD\textsuperscript{155} are also only accessible for a fee\textsuperscript{156} for that period. Moreover, none of the four administrations ensures publication of consolidated versions of legislation, since no standardised procedures for consolidation have been established.

Based on the results of the 2021 Balkan Barometer Survey, the perceived availability of laws and regulations affecting businesses is 25.5%. This marks a significant deterioration over time compared to 2017 when the percentage was 43%.

**Figure 2. Perceived availability of laws and regulations affecting businesses, 2017-2021**

![Perceived availability of laws and regulations affecting businesses, 2017-2021](image-url)

Notes: Responses refer to the percentage of respondents who replied "strongly agree" or "tend to agree" to the following question: “Information on laws and regulations affecting my firm is easy to obtain.” Of the respondents, 20.5% answered "tend to agree" and 5% answered "strongly agree".


**Conclusion**

The process of scrutiny of the quality of legislative proposals is defined in regulations at all levels of the administration and is applied consistently in practice. Bylaws are generally not adopted within the legally set deadline.

The regulatory framework for the publication of legislation lacks essential clarity and requirements. Legislation is published in different Official Gazettes and is not fully accessible to the public free of charge. Consolidated versions of legislation are not being prepared. The stability of government policy making and the availability of laws and regulations, as perceived by businesses, are low.

\textsuperscript{155}https://skupstinabd.ba/ba/87-obavjestenje-glasnik.html

\textsuperscript{156}The BD publishes laws for free on line: https://skupstinabd.ba/ba/zakon.html. However, these versions of the laws do not have formal status, since only the Official Gazette is the official source of adopted legislation.
Accountability
## The Principles of Public Administration

### Accountability

<table>
<thead>
<tr>
<th>Principle</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle 1</td>
<td>The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.</td>
</tr>
<tr>
<td>Principle 2</td>
<td>The right to access public information is enacted in legislation and consistently applied in practice.</td>
</tr>
<tr>
<td>Principle 3</td>
<td>Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.</td>
</tr>
<tr>
<td>Principle 4</td>
<td>Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.</td>
</tr>
<tr>
<td>Principle 5</td>
<td>The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.</td>
</tr>
</tbody>
</table>
Accountability

Summary and recommendations

Laws on public administration at the State level, in the Federation of BiH (FBiH), the Republika Srpska (RS) and the Brčko District (BD) establish the organisational set-up of the administrative apparatus. However, official typologies of administrative bodies determined in legislation lack clear definitions and criteria to apply them to different government functions. The exclusion of regulatory bodies and other institutions with executive powers from government administration contributes to an unclear organisational set-up and a weak accountability system.

Within government administrations, accountability mechanisms exist in legislation at all levels, but implementation is of a purely formal nature. It consists of activity reports forwarded to ministries by subordinated bodies as a prerequisite for approval by governments. Ministries and government departments do not carry out activities to effectively steer subordinated bodies, such as setting objectives, monitoring performance and providing guidance and feedback. In contrast, internal management in ministries is heavily centralised, with the minister’s approval required for all decisions, including those of minor technical relevance. This distracts ministers from their essential role of strategic direction, undermines the role of professional managers in ministries and allows for undue political influence in ordinary administrative procedures.

Legislation grants access to public information to all interested applicants without discrimination and with no requirement to justify requests. It defines public information broadly, and a catalogue of legitimate restrictions of the right to information is compatible with international standards in this field. Despite these legal guarantees, effective implementation of the right to information is not secured. One of the main reasons is the absence of a specialised body responsible for overseeing and enforcing the compliance of public bodies with transparency requirements. Another is the lack of political leadership at government level to promote proactive disclosure of information. A catalogue of information to be disclosed proactively by public bodies exists only at the State level, and it is not binding. Perceptions of both citizens and businesses on government transparency show a deteriorating situation in this area.

Overall, the legislation provides for effective executive oversight in other fields, in line with international standards, through the Ombudsman Institution, the State Audit Institutions (SAIs) operating at all levels and the courts. However, the Ombudsman Institution has no mandate to launch a constitutional review of legislation before the Constitutional Court, and its budget proposal must be approved by the Ministry of Finance. This opens the door to undue intervention of the executive power in the Ombudsman Institution’s capacities. The relatively good legislative framework contrasts with poor performance in practice. Insufficient implementation by public authorities of the recommendations of the Ombudsman Institution and the SAIs contributes to this situation and hampers the growth of public trust in both institutions. Trust in the judiciary is hindered by concerns on the functioning and transparency of the High Judicial and Prosecutorial Council (HJPC).

Legislation uniformly safeguards the right to challenge both administrative acts and inaction of administrative bodies across the country through different and harmonised laws regulating administrative disputes at the different levels. However, access to administrative justice is expensive, and the efficiency of courts in handling administrative cases varies sharply by entity. The situation in the Cantonal Court of Sarajevo (the biggest court in the country) is particularly worrying, with a disposition time exceeding twenty-eight months at the end of 2020 and a high backlog of cases. A positive development is that special laws establishing procedures for citizens to seek compensation for excessive length of proceedings were passed in the RS and BD.

Uniform regulation of public liability secures the right of citizens to seek compensation for damage caused by unlawful acts of public authorities. Unfortunately, due to the absence of monitoring mechanisms of the administrative and judicial practice in public liability cases, it is not possible to analyse the
**most common causes** of maladministration resulting in damage to citizens and assess the actual implementation of the right to compensation.

**Short-term recommendations (1-2 years)**
1) Governments at all levels should further develop the legislation on the organisation of public administration, by establishing a clear link between the types of public bodies and the functions they perform and their degree of autonomy.
2) Governments at all levels should promote managerial responsibility and accountability by introducing the principle of delegation of decision-making powers within ministries.
3) Parliaments at all levels should amend legislation on access to public information to establish comprehensive catalogues of information to be proactively disclosed, as well as institutions and procedures, to ensure adequate supervision of public bodies’ compliance with transparency obligations.
4) The Law on the Ombudsman should be amended to eliminate direct intervention of the executive in the approval of the Ombudsman Institution’s budget and to establish its competence to launch a review of legislation before the Constitutional Court.
5) Governments at all levels should implement the SAI’s, and particularly the Ombudsman Institution’s, recommendations or should formally justify non-implementation. Parliaments at all levels should monitor government implementation of the recommendations and request regular reporting on the topic.
6) In co-operation with the respective Entities’ authorities, the HJPC should develop and implement an action plan to reduce the backlog of administrative cases across the country.

**Medium-term recommendations (3-5 years)**
7) Governments at all levels should: 1) enhance the accountability of public bodies subordinated to them, by establishing the obligation for portfolio ministries to set clear objectives, targets and timelines in collaboration with subordinated bodies; 2) ensure the resources necessary to achieve them; and 3) conduct regular performance monitoring reviews.
8) Ministries of Justice at all levels should develop mechanisms to monitor public liability cases (both court cases and amicable settlements) to more effectively detect and eliminate cases of maladministration resulting in liability of public bodies.
Analysis

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 overall value for the indicator ‘Accountability and organisation of central government’ is 2. There were no major developments in terms of governance and accountability of public administration. The availability of data on existing public bodies has improved.

<table>
<thead>
<tr>
<th>Indicator 4.1.1. Accountability and organisation of central government</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
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</thead>
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<td>State level</td>
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<td>RS</td>
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<tr>
<td>Bosnia and Herzegovina</td>
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</tr>
</tbody>
</table>

**Sub-indicators**

**Policy and legal framework for central government organisation**

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>State level</th>
<th>FBIH</th>
<th>RS</th>
<th>BD</th>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Clarity and comprehensiveness of official typology of central government bodies</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>4/5*</td>
</tr>
<tr>
<td>2. Adequacy of the policy and regulatory framework to manage central government institutions</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2/5*</td>
</tr>
<tr>
<td>3. Strength of basic accountability mechanisms between ministries and subordinated bodies</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td></td>
<td>2/5*</td>
</tr>
<tr>
<td>4. Managerial accountability mechanisms in the regulatory framework</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td></td>
<td>5/5*</td>
</tr>
</tbody>
</table>

**Central government’s organisation and accountability mechanisms in practice**

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>State level</th>
<th>FBIH</th>
<th>RS</th>
<th>BD</th>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Consistency between practice and policy in government reorganisation</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td>0/4***</td>
</tr>
<tr>
<td>6. Number of public bodies subordinated to the parliament</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>4</td>
<td>3/4*</td>
</tr>
<tr>
<td>7. Accountability in reporting between central government bodies and parent ministry</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
<td>0/4*</td>
</tr>
<tr>
<td>8. Effectiveness of basic managerial accountability mechanisms for central government bodies</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
<td>0/4*</td>
</tr>
<tr>
<td>9. Delegation of decision-making authority within ministries</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
<td>0/4*</td>
</tr>
</tbody>
</table>

**Total**

<table>
<thead>
<tr>
<th>Bosnia and Herzegovina</th>
</tr>
</thead>
<tbody>
<tr>
<td>16/40</td>
</tr>
</tbody>
</table>

* Average of the State level, FBIH and RS. *** Based on the assessment of RS, as there were not enough recent cases of reorganisation in other levels.

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157 Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.
At all levels, the organisational setup of the administrative apparatus is determined by framework laws on public administration. They establish official typologies of administrative bodies (except for the BD), specify their legal status and set formal organisational hierarchies. The relevant framework laws on public administration combined with legislation on public financial management and civil service also provide general rules on organisational autonomy and accountability of public bodies.

However, the official typologies of public administration bodies lack clarity in terms of criteria distinguishing the various types of institutions and mechanisms for selecting the most suitable type to perform specific government functions. For example, in the RS, the Law on the Republic Administration adopted in 2018 recognises two kinds of sub-ministerial bodies: administrative bodies within ministries and administrative organisations. The only criterion established by law to distinguish between them is the “greater independence” required for the tasks to be performed by administrative organisations. This absence of detailed guidance on selecting the organisational type makes the decisions largely discretionary. Similar shortcomings affect the quality of the typologies established in the framework laws of the State-level and FBiH administrations.

In the BD, there is no official typology, only a list of bodies constituting the District administration. The major problem is the exclusion of some administrative bodies from this general legal framework. They operate outside the public administration regime, enjoying special legal status and extended autonomy regarding employment and financial management while implementing public administration functions.

Several other executive bodies operate outside the government administration in the BD and at other levels, remaining subordinate to the legislatures. The legislation grants this special status to some regulatory bodies:

- **State level**: State Electricity Regulatory Commission and Communications Regulatory Agency
- **FBiH**: Securities Commission and Energy Regulatory Commission
- **RS**: Regulatory Commission for Energy, Commission for Concessions, Securities Commission, Banking Agency and Insurance Agency
- **BD**: Securities Commission.

These bodies should enjoy extensive functional autonomy and remain free from undue political influence and pressures on regulatory decision-making. However, transferring them under parliamentary oversight is not required by international standards, particularly the EU legislation. These bodies should still contribute to the implementation of policies shaped by the governments, and be accountable to them.

Across all levels, the relationship between ministries and agencies follows a similar pattern. Agencies are autonomous in planning their objectives, targets and activities, according to the horizontal legal framework for planning and reporting. Plans and reports generally follow the format established by the legislation at each level. However, they are more activity-based than results-oriented, focusing more on delivering specific outputs than achieving policy outcomes. The portfolio ministries are only informed about the planned activities and receive reports on their implementation. Formal approval of annual plans and reports is done by the respective governments (councils of ministers). Still, governments do not provide any guidance, instructions or feedback to the agencies. This practice leads to a what might be termed a “steering vacuum”, in which the portfolio ministries abstain from performing any steering activities, such as setting or negotiating objectives and targets, monitoring the performance of subordinated agencies or providing structured feedback on performance.

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158 Law on Ministries and Other Administrative Bodies of BiH, Official Gazette of BiH Nos. 5/03, 2/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13 and 19/16; Law on Federal Ministries and Other Federal Administration Bodies, Official Gazette of the FBiH Nos. 58/02, 19/03, 38/05, 2/06, 8/06, 61/06, 61/06, 80/10 and 48/11; RS Law on Republic Administration, Official Gazette of RS, No. 115/2018; BD Law on Public Administration, Official Gazette of the BD Nos. 19/07, 2/08 and 43/08.

Heavily centralised internal management in the ministries is another common characteristic of public administration across all levels. The tradition persists of having ministers approve all decisions, including those of minor technical relevance (such as business trips and annual leave for staff). This is detrimental to the strategic role of ministers, as it leaves them less time to handle core policy-related issues. It also undermines the role of professional managers in ministries and allows for undue political influence in administrative procedures and human resource management.

**Conclusion**

Official typologies of administrative bodies are established at all levels (except for the BD), but they lack clear criteria for distinguishing diverse types of institutions and their degree of autonomy. There are no mechanisms ensuring control over the creation of new institutions, but very few new institutions were created in 2020. Ministerial steering of subordinated bodies is rather weak, while subordinated bodies enjoy extensive autonomy. Decision-making in ministries is highly centralised, which is detrimental to managerial empowerment and the strategic role of ministers.
**Principle 2:** The right to access public information is enacted in legislation and consistently applied in practice.

The overall value for the indicator ‘Accessibility of public information’ is 2. This reflects a lack of progress both in handling deficits of the legislative framework and promoting a culture of transparency among public institutions.

### Indicator 4.2.1. 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-indicators</td>
<td><strong>State level</strong></td>
<td><strong>FBIH</strong></td>
<td><strong>RS</strong></td>
<td><strong>BD</strong></td>
<td><strong>Bosnia and Herzegovina</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Legal and institutional framework for access to public information</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Adequacy of legislation on access to public information</td>
<td>8</td>
<td>8</td>
<td>7</td>
<td>8</td>
<td>8/10*</td>
<td></td>
</tr>
<tr>
<td>2. Coverage of basic functions for implementing access to public information</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0/5*</td>
<td></td>
</tr>
<tr>
<td><strong>Citizens’ level of access to public information</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Proactivity in disclosure of information by state administration bodies on websites (%)</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2/5*</td>
<td></td>
</tr>
<tr>
<td>4. Proactivity in disclosure of datasets by the central government (%)</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1/5*</td>
<td></td>
</tr>
<tr>
<td>5. Perceived accessibility of public information by the population (%)</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1/2.5**</td>
<td></td>
</tr>
<tr>
<td>6. Perceived accessibility of public information by businesses (%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0/2.5**</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12/30</td>
<td></td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS. ** Country-wide data.

The legislative framework for the right to access public information remains similar across the levels. The respective laws formally guarantee access to information to all interested applicants without discrimination and with no requirement to justify public information requests. Public information is defined broadly, and a catalogue of legitimate restrictions of the right to information is compatible with the essential international standards in this field, primarily the Council of Europe Convention on Access to Official Documents.

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

(Tromso Convention), signed and ratified by Bosnia and Herzegovina (BiH)\textsuperscript{162}. However, in practice, these formal guarantees do not secure effective implementation of the right to information. According to the 2021 Balkan Barometer survey, citizens and businesses perceive a low level of performance of public institutions across BiH in processing public information requests. The perception of transparency among businesses is particularly alarming. Only a tenth of the respondents who were in contact with public bodies reported experiencing good quality of services relating to access to information.

Figure 1. Perception of transparency, 2021

One of the reasons for this situation is the lack of a strong institutional framework to oversee the implementation of laws enshrining the right to information. In contrast to all other countries in the region, Bosnia and Herzegovina has not established a specialised body (commission or commissioner) responsible for overseeing the compliance of public institutions with the transparency requirements. Therefore, no single institution is in charge of considering appeals of refusal of access to information, conducting inspections, imposing sanctions and collecting statistical data illustrating the state of play in this area. Some functions are allocated to the Ombudsman Institution. Its special mandate concerning the right to information comprises creating and disseminating guidelines and general non-binding recommendations on implementation of the laws on access to information, describing activities in the sphere of public information in a special section of the Ombudsman’s annual report and proposing instructions on application of the freedom of information laws to competent ministries at each level. Moreover, all public bodies must report to the Ombudsman Institution with statistical data on, for example, the number of public information requests received, the types of information requested and decisions made upon requests\textsuperscript{163}. In addition to this, the Ombudsman Institution considers individual complaints, within its core capacity to investigate violations of all human rights and freedoms.

However, the Ombudsman Institution has neither the power nor the organisational capacities to effectively perform the role of oversight body in the area of access to public information. As a body of broad mandate involved in numerous areas, it cannot dedicate sufficient capacities and resources to effectively deal with access to public information. While considering the continuously increasing number of individual


\textsuperscript{163} Articles 20-22 of the Freedom of Information Act of Bosnia and Herzegovina; Articles 20-22 of the Freedom of Information Act of the FBiH; Articles 20-22 of the Freedom of Access to Information of the RS.
complaints about the right to information, it can only address public authorities with non-binding recommendations. Furthermore, it cannot impose sanctions for any violations by public bodies of the right to information. Finally, even its task of collecting statistical data cannot be effectively performed. Most public bodies fail to submit their statistical reports, and there is no mechanism for sanctioning such acts. The situation is most problematic in the RS, as only 10 institutions (out of at least 100-120 bodies) provided data for 2020. Among those that did, there were no ministries.\textsuperscript{164}

At the State level, the Administrative Inspectorate has a special mandate to inspect public bodies' compliance with the legislation on public information. However, in 2020 it conducted only four inspections, resulting in no sanctions for violations of the right to information. In the FBiH, the RS and the BD, there are no institutions with inspection records in this area. Respective administrative inspectorates did not report any inspection activities focusing on monitoring compliance of public institutions with transparency legislation.

Voluntary efforts of information holders do not compensate for deficits of external supervision. According to SIGMA's review of the websites of selected institutions across all levels, public bodies fail to share even basic organisational documents (e.g. annual plans, reports and budgets). The low level of proactive transparency could be attributed partially to the lack of a catalogue of information to be disclosed proactively. Only at the State level, have Standards of Proactive Transparency in Public Administration in BiH\textsuperscript{165} been adopted by the Council of Ministers. This document provides an extensive catalogue of information to be disclosed proactively on the websites of State-level bodies. However, it has a status of soft law, not constituting binding standards for all information holders that could be subject to review and sanctions.

**Conclusion**

Legislative frameworks on access to information lack focus on promoting proactive transparency, which results in low perceived accessibility to public information, particularly by businesses. The major problem at all levels is the lack of adequate supervision of public authorities' observance of the right to information. There are no bodies performing oversight functions, such as collecting reliable statistics, providing effective remedies against refusal of access to information and sanctioning violations of the right to information.


\textsuperscript{165} Available at: \url{http://www.vijeceministara.gov.ba/home_right_docs/info/default.aspx?id=29703&LangTag=hr-HR}. 

MONITORING REPORT: BOSNIA AND HERZEGOVINA NOVEMBER 2021 © OECD 2021 ACCOUNTABILITY
Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.

The overall value for the indicator ‘Effectiveness of scrutiny of public authorities by independent oversight institutions’ is 3. Issues persist on the effectiveness and independence of the oversight institutions.

<table>
<thead>
<tr>
<th>Indicator 4.3.1. Effectiveness of scrutiny of public authorities by independent oversight institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
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<tbody>
<tr>
<td>State level</td>
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<td>FBIH</td>
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<tr>
<td>Bosnia and Herzegovina</td>
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<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal and institutional framework for oversight institutions</td>
<td></td>
</tr>
<tr>
<td>1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution</td>
<td>7</td>
</tr>
<tr>
<td>2. Legislative safeguards for the independence and adequate mandate of the SAI</td>
<td>9</td>
</tr>
<tr>
<td>3. Legislative safeguards for the independence of courts and judges</td>
<td>10</td>
</tr>
</tbody>
</table>

| Effectiveness of and public trust in oversight institutions | |
| 4. Implementation of ombudsman recommendations (%) | 2 |
| 5. Implementation of SAI recommendations (%) | 4 | 0 | 0 | 0 |
| 6. Perceived independence of oversight institutions by the population (%) | 1 |
| 7. Trust in oversight institutions by the population (%) | 1 |
| 8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%) | 3 |

| Total | 34/61 |

* Average of the State level, FBIH and RS. ** Country-wide data.

The Ombudsman Institution is the only oversight body covering the whole country. There are separate SAIs at the State level and in the FBIH, the RS and the BD. The judicial system is also organised separately at each level, but the single HJPC performs the main governance functions for all courts in the country, including decisions on judicial appointments, promotion and disciplinary matters. It is also responsible for setting performance targets for all judges and monitoring judicial performance. The formal status of the HJPC meets minimum international standards, but its functioning and transparency are subject to some concerns. While, in line with international standards, it is composed predominantly of

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166 Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-61=5.
judges, a complex appointment procedure excessively restricts the pool of eligible candidates. Members are not elected by the whole judicial community, but by peers from the same level of courts in the respective entities. Furthermore, the practice of disciplinary proceedings is heavily criticised, especially in cases where allegations relate to the members of the HJPC themselves. The legal status of the Ombudsman Institution, the SAIs and the courts largely corresponds with international standards. However, in the case of the Ombudsman Institution, some shortcomings of the legislative framework have not yet been addressed, despite attempts to amend legislation. First, the Bosnian Ombudsman Institution is the only ombudsman institution in the region with no mandate to launch a constitutional review of the legislation before the Constitutional Court. Second, the financial independence of the institution is hampered by the arrangement requiring the Ombudsman Institution to forward a budgetary proposal to the Ministry of Finance for approval, not directly to the Parliamentary Assembly of BiH. On the other hand, the Ombudsman Institution stands out among European Ombudsman Institution due to its extensive mandate and instruments to pursue its mission. For example, it may launch judicial proceedings and join pending proceedings. Its remit also covers investigating “poor functioning of the judicial system or the poor administration of an individual case”, which provides a broad mandate to oversee the efficiency of the judiciary.

Despite a relatively good legislative framework, the overall performance of the oversight system is not adequate. The level of implementation by public authorities of the recommendations of the Ombudsman Institution and the SAIs is low. Only 31% of the recommendations issued by the Ombudsman Institution in 2020 were fully implemented, the same percentage as in 2016 (Figure 2). The high number of recommendations unanswered by state institutions is particularly worrying (over one-fourth of the recommendations issued in 2020), despite the clear legal obligation to inform the Ombudsman Institution about the measures undertaken following the Ombudsman Institution’s investigation. However, none of the legislatures issued any statements or resolutions urging public bodies to improve their implementation of the Ombudsman’s recommendations or to ensure proper communication with this institution.


168 Law on Ombudsman of BiH, Official Gazette of BiH, Nos. 32/00, 19/02, 35/04 and 32/06.

169 Law on the Human Rights Ombudsman of Bosnia and Herzegovina, Article 4.
Responsiveness to the SAIs’ audits differs across levels. While in the FBIH and the RS, public authorities implemented less than one-fifth of the SAI’s recommendations, at the State level, implementation reached 54%, a similar level to that of the previous assessment. In the RS, the low implementation rate is linked to some extent with the process for verifying implementation of recommendations, which was issued in 2019, but has not yet been completed.

Consistent with this situation, the most recent Balkan Barometer shows a low level of trust in public institutions’ scrutiny of the executive. Courts (along with parliaments) are the least trusted institutions. Over 70% of citizens believe that judicial bodies are prone to political influence. The assessment of the effectiveness of the Ombudsman Institution and the SAIs is only slightly better. They are trusted by one-third of the population, and over 40% of citizens recognise their capacity to oversee the executive effectively.

Data from the Rule of Law Index of the World Justice Project (WJP), which combines a general population poll with a questionnaire distributed among experts, reaffirms this picture. The functioning of the judicial system and mechanisms for sanctioning misconduct of public officials are subject to particular criticism. In terms of the effectiveness of the whole oversight system, Bosnia and Herzegovina scores significantly lower than the global average, and the situation has deteriorated since the first assessment in 2015\textsuperscript{170}.

Figure 3. Bosnia and Herzegovina’s performance in the World Justice Project Rule of Law Index; criterion: Constraints of Government powers

<table>
<thead>
<tr>
<th>BiH in the WJP 2020: Position in global ranking (128 countries in total)</th>
<th>Trend in total score (2015-2020) [scale: 0-1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government powers are effectively limited by the legislature</td>
<td>83</td>
</tr>
<tr>
<td>Government powers are effectively limited by the judiciary</td>
<td>99</td>
</tr>
<tr>
<td>Government powers are effectively limited by the independent auditing and review</td>
<td>70</td>
</tr>
<tr>
<td>Government officials are sanctioned for misconduct</td>
<td>96</td>
</tr>
<tr>
<td>Government powers are subject to non-governmental checks</td>
<td>98</td>
</tr>
<tr>
<td>Transition of power is subject to the law</td>
<td>87</td>
</tr>
</tbody>
</table>


Conclusion

Legislative and institutional preconditions for independent oversight of the executive are safeguarded, with some shortcomings concerning the Ombudsman Institution. But the effectiveness of this system suffers from low responsiveness of public bodies to recommendations of the Ombudsman Institution and the SAIs (except for the State level). The legal status of courts and judges is regulated in line with international standards, but citizens’ confidence in the judicial system remains low.
Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.

The overall value for the indicator ‘Fairness in handling of administrative judicial disputes’ is 3. There have been recent positive developments, with the establishment of new measures to address excessive length of judicial proceedings.

### Indicator 4.4.1. 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 and the administrative judiciary is characterised by efficiency, quality (including accessibility) and independence. Outcomes in terms of case flow and public perceptions of independence are also measured.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
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<td>FBiH</td>
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<tr>
<td>RS</td>
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<td>BD</td>
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<tr>
<td>Bosnia and Herzegovina</td>
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</tr>
</tbody>
</table>

**Sub-indicators**

#### Legal framework and organisation of judiciary

1. Adequacy of the legislative framework for administrative justice
   - 6/6*

2. Accessibility of administrative justice
   - 3/4*

3. Effectiveness of remedies against excessive length of proceedings in administrative cases
   - 1/2*

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
   - 4/5*

#### Performance of the administrative justice system

7. Perceived independence of judicial system by the population (%)
   - 1/5**

8. Calculated disposition time of first-instance administrative cases
   - 2/5**

9. Clearance rate in first-instance administrative courts (%)
   - 3/5**

10. Cases returned for retrial by a higher court (%)
    - 3/5**

**Total**

- 25/40

*Average of the State level, FBiH and RS. ** Countrywide data.

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171 Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.
Judicial review of administrative acts is guaranteed countrywide, although each level has separate laws regulating administrative disputes. There are no major discrepancies between these laws in terms of the basic procedural principles. They uniformly safeguard the right to challenge both administrative acts and inaction of administrative bodies. A relatively high court fee (approximately 7% of the average gross monthly salary) hampers access to administrative justice for initiating administrative disputes. However, this is compensated to some extent by the free legal aid (including representation in the court) available to low-income citizens at all levels.

The courts considering cases are formally empowered to make not only cassatory decisions (i.e. repealing administrative acts and returning the case for reconsideration by the respective administrative authority). They may also issue reformatory rulings resolving the case on the substance, but the decision to apply this power is largely discretionary to the court. There are safeguards provided in case of failure to implement judicial decisions, including the power to impose financial sanctions on responsible officials.

The courts of general jurisdiction handle administrative cases, but in most of the courts internal specialisation of the judges in administrative matters is ensured. These judges handle other types of cases only if they do not have sufficient administrative cases to meet the performance targets set by the HJPC. Courts and judges have access to modern information technology infrastructure, particularly the advanced electronic case management system, enabling random allocation of cases to judges, recording all events of the cases and monitoring the workload of judges and courts.

However, there is not sufficient support from judicial assistants. In the FBiH and the RS, one judicial assistant serves six judges on average. In the State level’s Court of BiH, three legal assistants support nine judges. In the BD, the single judge dealing with administrative matters does not have access to this kind of assistance.

Assessment of the efficiency of courts in handling administrative cases shows a mixed picture. In the RS, the average time needed by the courts to dispose of a case (268 days) is only slightly longer than the European average. However, at the State level and in the FBiH, it exceeds 1.5 years (558 days at the State level and 661 in the FBiH); in the BD it is more than one year (443 days). On the other hand, in 2020, amid the pandemic, the courts in the FBiH and the RS managed to reach relatively good clearance rates, at least avoiding significant backlog increases. The State level’s Court of BiH was not as successful, closing the year 2020 with a backlog of unresolved cases more than 50% higher than the cases it resolved in 2020.

172 State Law on Administrative Disputes (LAD), Official Gazette of BiH Nos. 19/02, 88/07, 83/08 and 74/10; FBiH LAD, Official Gazette of the FBiH, No. 11/05; RS LAD, Official Gazette of the RS Nos.109/05 and 63/11; BD LAD, Official Gazette of the BD No. 4/00.

The situation in the Cantonal Court of Sarajevo, the biggest court in the country, is particularly concerning. Calculated disposition time in this court reached 28 months at the end of 2020. Nearly one thousand cases (half of the annual influx) are pending for more than two years. Considering the number of judges, the number of old cases to be resolved reached nearly 500 per judge.

Table 1. Statistical data on the performance of the Cantonal Court in Sarajevo in administrative matters, 2020

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Data for 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calculated disposition time</td>
<td>837 days</td>
</tr>
<tr>
<td>Clearance rate</td>
<td>119%</td>
</tr>
<tr>
<td>Cases pending for more than 1 year</td>
<td>935</td>
</tr>
<tr>
<td>Cases pending for more than 2 years</td>
<td>842</td>
</tr>
<tr>
<td>Cases pending for more than 3 years</td>
<td>104</td>
</tr>
</tbody>
</table>

The above-illustrated level of efficiency shows the need to develop mechanisms for citizens to be able to pursue their right to trial within a reasonable time. As of 2020, citizens obtained new legal instruments in this matter. Special laws regulating the procedure for seeking compensation for excessive length of proceedings were passed in the RS\textsuperscript{174} and the BD\textsuperscript{175}, and are under development at the State level and in the FBiH. Until their adoption, the parties could submit complaints to the Constitutional Court of BiH that resolved them by directly applying the European Convention on Human Rights. When accepting a complaint, the Constitutional Court sets the deadline for the relevant court to dispose the case and grants financial compensation to the party. However, this procedure was not fully effective and efficient. The Constitutional Court does not have the capacity to handle all complaints from the whole country efficiently.


\textsuperscript{175} Law of 24 February 2021 on Protection of the Right to Trial within a Reasonable Time, BD Official Gazette No. 2/2021.
and handling this type of cases is not the core mission of a body responsible primarily for constitutional review of legislation. Hence the need to adopt special laws enabling the parties to protect their right to trial within a reasonable time before the entity-level courts.

**Conclusion**

Judicial review of administrative acts operates under a well-harmonised legal regime across all levels, ensuring extensive rights to challenge administrative actions and omissions. The efficiency of courts in administrative matters differs across the country, with major problems concentrated in the country's largest court, the Cantonal Court of Sarajevo, and to a lesser extent at the State level. The average duration of administrative judicial disputes is significantly shorter in the RS, due to recent legislative changes.

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

The overall value for the indicator ‘Functionality of public liability regime’ is 2, reflecting a stable legislative framework and a lack of progress in monitoring administrative and judicial practice on public liability.

<table>
<thead>
<tr>
<th>Indicator 4.5.1. Functionality of public liability regime</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FBiH</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RS</td>
<td></td>
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<td></td>
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<tr>
<td>BD</td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Bosnia and Herzegovina</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

**Sub-indicators**

**Legal framework for public liability**

1. Comprehensiveness of the scope of public liability
   - 1 point
   - 1/1**

2. Coverage of the public liability regime to all bodies exercising public authority
   - 1 point
   - 1/1**

3. Non-discrimination in seeking the right to compensation
   - 1 point
   - 1/1**

4. Efficiency and fairness of the procedure for seeking compensation
   - 3 points
   - 3/3**

**Practical implementation of the right to seek compensation**

5. Application of the public liability mechanism in the courts in practice
   - 0 points
   - 0/3**

6. Payments made to entitled applicants (%)
   - 0 points
   - 0/3**

**Total**

- **6/12**

**Country-wide data.**

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176 Point conversion ranges: 0-2=0, 3-4=1, 5-6=2, 7-8=3, 9-10=4, 11-12=5.
Uniform regulation of public liability, based on the Yugoslav Law on Obligations\textsuperscript{177}, secures the right of everyone, regardless of legal status or nationality, to seek compensation for damage caused by unlawful acts of public authorities. For this purpose, the provision relating to the liability of a legal person for damage caused by its organs applies. Furthermore, the principle of public liability is also articulated in the respective laws regulating the organisation of public administration at the State level\textsuperscript{178}, the RS\textsuperscript{179} and in the BD\textsuperscript{180}.

The right to compensation comprises both direct loss and lost profits. Applicants may file the case with the courts of general jurisdiction, and their claims are processed according to the respective civil procedure codes. The court decides on both the substance of the claim and the amount of compensation if the claim is accepted. The general time limit for launching a public liability case is three years.

Unfortunately, there is no mechanism for monitoring administrative and judicial practice in public liability cases at any level. As a result, it is impossible to assess the actual application of the legal guarantees of the right to compensation. The absence of monitoring mechanisms also hampers identification and mitigation of the most common cases of maladministration resulting in damage caused to citizens.

**Conclusion**

The Law on Obligations provides formal guarantees for seeking compensation for maladministration leading to damage to citizens and other parties. However it is not possible to assess these procedures, due to the lack of monitoring of administrative and judicial practice in these matters and hence of reliable statistics.

\textsuperscript{177} Official Gazette of the FBiH No. 29/03; Official Gazette of BiH No. 2/92; Official Gazette of the RS Nos. 17/93 and 74/04.

\textsuperscript{178} State Law on Administration, Article 8.

\textsuperscript{179} RS Law on Republic Administration, Article 10.

\textsuperscript{180} Law on Public Administration of BD, Article 6.
Public Financial Management
**The Principles of Public Administration**

**Public Financial Management**

| 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. |
| 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. |
| 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. |
| 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. |
| Principle 5 | Transparent budget reporting and scrutiny are ensured. |

**Internal audit and control**

| 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. |
| Principle 7 | Each public organisation implements internal control in line with the overall internal control policy. |
| 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. |
| Principle 9 | Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation. |

**Public Procurement**

| 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. |
| Principle 11 | There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently. |
| 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. |
| 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. |
| Principle 14 | Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle. |

**External audit**

| 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. |
| 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. |
Public Financial Management

Summary and recommendations

Bosnia and Herzegovina (BiH) has a unique and complex public finance system. It comprises the State level, the two Entities (the Federation of Bosnia and Herzegovina [FBIH] and the Republika Srpska [RS]) and the Brčko District [BD]). In terms of funding, direct taxes are collected and distributed within the FBIH, the RS and the BD, while indirect taxes are determined at the State level and the revenue is then divided between the State level, the Entities and the BD. Given this structure, there is no single framework for public financial management (PFM). Rather, four different PFM systems exist, and there is no centralised domestic organisation that publishes centralised consolidated data on public finances.

The quality of the medium-term budgetary framework (MTBF) in BiH is impacted by its complexity, which has contributed to delays in, or the non-publication of, Budget Framework Papers at the State level and in the FBIH. This is compounded by limited parliamentary scrutiny.

There has been some limited improvement in the quality of the annual budget process and budget credibility, due to better alignment between the planned revenue and expenditure and the outturn. However, budgetary discipline and respect for the budgetary laws has been undermined, due to repeated failures to observe the budget calendar, extensive use of temporary financing measures and limited time for parliamentary scrutiny.

There is no consistent approach to fiscal rules. At State level and in the FBIH, there are no fiscal rules concerning both debt and deficit limits. However, in 2018 the RS established fiscal rules: the deficit is to be no more than 3% and the debt no more than 55% of GDP. While there was a temporary deviation from the rules in 2020 due to the emergency situation related to the Covid-19 pandemic, the National Assembly adopted a decision approving the temporary deviation from the fiscal rule of the consolidated budget deficit. The RS has also established a fiscal council. But at the State level and in the FBIH, independent authorities to support the rigor of the budgeting process (such as a fiscal council) have still not been established. Large capital investment decisions generally lack independent and transparent appraisal of the costs and benefits, which could put a strain on the budget in the future.

There has been limited progress in the reliability of budget execution and accounting practices and the quality of public debt management. Cash flow forecasting continues to be an area where improvements are required, and general government arrears is still an area where there is little clarity or information. While the level of public debt to GDP is relatively low (35%), there is limited coverage of state-owned enterprises (SOEs) and FBIH local government debt and the risks that they pose.

There has been some progress in the transparency and comprehensiveness of budget reporting and scrutiny, but there are still weaknesses in the quality of in-year and annual reporting. Parliamentary scrutiny of in-year budget execution and annual financial statements continues to be limited. The regulatory and operational framework for internal control at the State level and in the FBIH and the RS is largely in place, with strategies to guide its further development until at least 2025. However, the effective level of implementation of internal control (IC) systems and managerial accountability within the budget organisations and between ministries and their subordinate organisations is limited. The FBIH and the RS face greater implementation challenges due to the numbers of institutions required to implement IC systems and the lack of capacity to manage and monitor progress. For the BD, the framework itself is less developed, so institutional arrangements are only at a formative stage.

The regulatory and operational framework for internal audit (IA) is largely complete and broadly in line with the requirements of international standards. However, while the establishment of IA units in the State level, the FBIH and the RS institutions has improved, it is still far from complete, with a significant number not meeting the regulatory requirements or able to substantively comply with international standards. There has been an improvement in the proportion of IA units implementing internal audit
in line with the internal audit operational policies, with audits being planned, conducted and reported in line with international standards. But there are still some significant areas for improvement, and the impact of the work continues to be low. The BD is in the formative stages of establishing the operational framework for internal audit, and an IA unit has yet to be established.

The Public Procurement Law (PPL) has remained unchanged since 2014. The aim of the PPL is to ensure compliance with the principles of non-discrimination, competition, transparency and equal treatment. It reflects some of the key elements of the 2014 EU Public Procurement Directives. However, while the application of domestic preferences was supposed to be phased out on 1 June 2020, the Council of Ministers of BiH (CoM) decided to temporarily extend the application of preferential domestic treatment of 30% until 1 June 2021 in response to the COVID-19 pandemic. The application of domestic preferences is not in line with the fundamental principle of equal treatment and leads to discrimination against EU companies in BiH.

In February 2021, the CoM adopted the Proposal on the Law on Amendments to the Public Procurement Law and submitted it to the parliamentary procedure.

Implementation of the Public Procurement Strategy, which expired in 2020, has not been successful. No annual action plans have been adopted since 2017, and there have been no reports on implementation of the Strategy. Very few activities have been actually put into practice.

The institutional set-up remains the same.

Understaffing of the Public Procurement Agency (PPA) is a source of serious concern, given the volume, variety and importance of the functions the PPA is called upon to undertake. This is particularly the case for the PPA’s monitoring function and advisory and operations support. The PPA has been inactive in preparation of manuals, guidelines and other accompanying materials for professional development. It is regarded as very responsive and co-operative, but the lack of consistency in interpretation of procurement legislation between key institutions, in particular between the PPA and the Procurement Review Body (PRB), is consistently noted as a problem by stakeholders.

The PRB, with headquarters in Sarajevo and branch offices in Mostar and Banja Luka, acts as an independent and autonomous institution responsible for the review of appeals. In 2020, the PRB upgraded its internal information system. This was supposed to enable the three offices to co-ordinate their operations and ensure consistent decision-making and legal certainty, but the inconsistency of its decisions is the most frequently criticised aspect of the work of the PRB. The rising trend in the number of appeals submitted to the PRB demonstrates the need to strengthen its capacity. Almost 10% of the PRB’s decisions were challenged before the Court of Bosnia and Herzegovina in 2020, but the length of administrative disputes is excessive, from one to three years. Poor transparency in the PRB’s decision-making remains an unresolved issue. Not all PRB decisions are published on the Public Procurement Portal.

There is a continued positive trend in the PPA’s management and development of the centralised electronic Public Procurement Portal, which is a very strong element of the system. However, full e-communication including e-submission of tenders and requests to participate has not yet been introduced.

Stakeholders report that implementation of the PPL is very formalistic and fails to achieve some of its main objectives. For example, the PPL introduced mandatory self-declaration of economic operators to replace documentary evidence as the condition for participation in procurement procedures, but this in effect imposes greater burden and costs to participants.
**Short-term recommendations (1-2 years)**

1) The CoM of BiH and the Entity Governments should recommit themselves to observing the budget calendar as set out in the respective budget laws, as the delays in finalising and adopting the annual budgets undermine the budgetary system.

2) The ministries of finance (MoFs) should draft proposals to amend the organic budget laws to require that the Budget Framework Papers (BFPs) be sent to the parliaments for approval prior to the annual budget being adopted and allow more time for parliamentary consideration of the annual budget.

3) The MoFs of the FBiH and the RS, and the Finance Directorate (FD) of the BD should propose legislative changes to their respective governments to bring all extra-budgetary funds (EBFs) and all proposed capital expenditure fully into the budget process.

4) The MoFs of the FBiH and the RS should publish a monthly forecast of budget execution at the beginning of the year and monthly budget execution reports throughout the year and should improve cash-flow forecasting by performing monthly updates.

5) The MoFs of the FBiH and the RS should develop a system for establishing the level of arrears at all levels of government and in SOEs, publish comprehensive quarterly reports on arrears and include a section on arrears in the annual financial statements.

6) The MoFs of the FBiH and the RS should expand their debt strategies to include greater analysis of the debt risk posed by SOEs and for FBiH local government.

7) The Central Harmonisation Units (CHUs) of the State level and all the Entities should be helped to develop the skills necessary to move to the next stage of IC development so they can provide more practical help to institutions, such as advising on appropriate levels of control that balance cost and complexity with risk or the necessary monitoring and feedback mechanisms for different levels of delegation.

8) The CHUs should finalise and implement arrangements for external quality assessment of the work of IA units, in accordance with the requirements of the International Professional Practice Framework for Internal Auditing (IPPF)\(^\text{181}\). The FBiH CHU should finalise plans for a programme of continuing professional development for internal auditors and implement it.

9) The BD should establish an operational framework for IA, with the CHU developing the guidance needed, including a manual, standards, code of ethics and charter. It should consider co-operating with the IA units and CHUs of the State level and the Entities to learn from their experience.

10) The CHU Co-ordination Board should look again for ways to reduce the numbers of single-person IA units, exploring the scope for more combined units to provide a critical mass of staff to enable effective internal quality control and allow for career progression. The CHUs should also encourage institutions to reconsider the levels of IA staffing required to meet their audit obligations and to recruit staff to fill IA vacancies to enhance the effectiveness of IA.

11) To improve implementation rates, the CHUs should develop further guidance for IA units on the development and wording of recommendations and their follow up.

12) The PPA in co-operation with the competent authorities should prepare and adopt the new Public Procurement Strategy and the Action Plan for implementation of the Strategy. The strategic documents should include objectives, indicators, targets, responsible institutions and the source of financing.

13) The PPA should undertake the process of alignment of the legislation with the 2014 Directives. Secondary legislation and other implementing instruments that supplement and detail the provisions of the primary law should be updated in a timely manner and aligned with the primary law.

14) While acknowledging the need for institutional independence, the PPA and the PRB should establish formal or informal mechanisms to co-ordinate interpretation of procurement legislation between key institutions on a regular basis.

15) The CoM should strengthen the staff and technical capacity of the PPA and the PRB to enable them to fully carry out their tasks under the Public Procurement Law.

\(^{181}\) IPPF developed by the Institute of Internal Auditors and updated in 2017.
16) The PRB, in conjunction with the PPA as necessary, should create a free text-search facility to allow stakeholders to browse both current and archived PRB decisions by subject matter, keyword or legal provision, and should also publish all decisions and conclusions without delay on the Public Procurement Portal.

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

17) The Council of Ministers at the State level and the FBiH Government should introduce fiscal rules on debt and deficit limits and establish an independent fiscal monitoring body.

18) The Ministry of Finance and Treasury (MoFT) at the State level, the MoFs in the FBiH and the RS, and the BD FD should ensure that coding within budget structures enables alignment with management structures to facilitate delegation of budgets and that Treasury financial management information systems can provide information at the level of delegated budget holders to support monitoring and accountability.

19) The MoFT at the State level, the MoFs in the FBiH and the RS, and the BD FD should consider moving from centralised control to a more decentralised management of resources as institutions strengthen their IC processes and demonstrate effective management of their resources.

20) The CHU Co-ordination Board should consider ways of enhancing IA capability in more specialised technical areas, such as IT Audit, performance audit and audit of major capital projects.

21) The PPA should proactively promote the use of award criteria other than acquisition price. It should also develop, publish and disseminate tools for implementing public procurement provisions such as manuals, guidelines and instructions on subjects including preliminary market analysis, procurement planning and contract management. It should furthermore move quickly to post solutions to the most common practical problems on its website.

22) The PPA and other competent authorities should implement full e-communication in public procurement, including e-submission of tenders and requests to participate.

23) The PPA and other competent authorities should further encourage of introduction of centralised public procurement at various levels, where appropriate.
Analysis

Budget management

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.

Overall, the value for the indicator ‘Quality of the medium-term budgetary framework’ is 3.

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Strength of the medium-term budgetary framework</td>
<td>8</td>
</tr>
<tr>
<td>2. Strength of the fiscal rules</td>
<td>0</td>
</tr>
<tr>
<td>3. Credibility of medium-term revenue plans (%)</td>
<td>3</td>
</tr>
<tr>
<td>4. Credibility of medium-term expenditure plans (%)</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>15/25</td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

At the State and Entity levels, multi-annual budget plans are produced under the respective legislation. These Budget Framework Papers (BFPs) seek to establish the broad outline of the budget and fiscal parameters for the next three-year period. These forecasts/papers are based on a Global Framework for Fiscal Balance and Policies (GFFBP) that is developed centrally with inputs from all the Entities and sets out the agreed countrywide macro-economic framework within which the individual BFPs are developed. The GFFBP would normally be developed early in the year to be followed by the BFPs in mid-year. Besides being the framework for the BFPs, the GFFBP also determines the income from indirect taxes, which is a State-level responsibility. It determines allocation of the share of indirect tax to each Entity after first allocating revenue to the State level for the support of its institutions and payment of debt obligations.

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182 The sub-indicator was determined on the basis of 2019 data due to the Covid-19 Pandemic in 2020.
183 Idem.
184 Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-22=4, 23-25=5.
185 Law on the Financing of the BiH Institutions, Official Gazette of BiH Nos. 61/04, 49/09 and 42/12; Law on the Budget of the FBiH, Official Gazette of the FBiH Nos. 102/13, 9/14, 13/14, 8/15, 91/15 and 102/15; Correct footnote: Law on Budget System of RS, Official Gazette of RS No. 121/12, 52/14, 103/15 and 15/16; Law on the Budget of the BD, Official Gazette of the BD No. 17/08.
of BiH. The co-ordination of the GFFBP is a mandate of the Fiscal Council\textsuperscript{186}, a co-ordinating body supported by an advisory body made up of representatives from the various MoFs and the Central Bank.

However, the system is cumbersome and does not always run as smoothly as it should. This in turn is tied up with the complex budgetary system in BiH, reflecting the political and constitutional system within which it has to function. In 2019, the GFFBP was only adopted on 27 December 2018, and this impacted adversely on the development of BFPs. This meant that the BFPs were developed on an ad hoc basis for the 2020-2022 period. In the RS, the BFPs were published in mid-year in 2018, 2019 and 2020. But in the FBiH, while a BFP was published in June 2018, no BFP was published in 2019 and the BFP in 2020 was only published in September. At the State level, while a BFP was published in July 2018, there was no BFP in 2019, and in 2020 it was adopted in December (rather than in July as specified in the Law\textsuperscript{187}). In 2020, the GFFBP was only adopted in September 2020, which again had an impact on the development of the various BFPs.

In general, the BFPs set out the expected revenue and expenditure for the three-year period they cover and set the scene for the annual budget for the following year. The BFPs generally set the parameters for the coming budget year, but only looser targets for the last two years.

The BFPs in the RS and the FBiH consolidate non-central government sectors such as local authorities and extra budgetary funds (EBFs) (there are no local authorities at the State level). In the FBiH, local authorities level (cantons and municipalities) enjoy certain constitutional independence, and sharing of information with the FBiH government is not always complete. Therefore, the MoF uses historical data for some projections. This means that the accuracy of the consolidated figures is questionable.

In relation to fiscal rules, there is no common approach. At the State level and in the FBiH, there are no fiscal rules concerning either debt or deficit limits. In the FBiH, the Budget Law\textsuperscript{188} requires that the budget be balanced or, if a deficit occurs, that it must be addressed in the coming five years, but there is no fixed debt rule. The FBiH may borrow subject to a limit of the debt servicing costs not exceeding 18% of the revenues of the previous year\textsuperscript{189}. A similar but lower restriction applies to cantons (5%). At the State level, there is no debt or deficit restriction. In the FBiH and at the State level, there is no independent budgetary monitoring body, such as a Fiscal Council.

In 2018, the RS introduced a revised law\textsuperscript{190} that set fiscal rules: the deficit is to be no more than 3% of GDP and the debt no more than 55% of GDP. In addition, a Fiscal Council was appointed\textsuperscript{191}, and it has begun to issue reports. Under the law, the Fiscal Council, which reports to the National Assembly, is required to independently assess the credibility of the fiscal policy of the Government’s proposals and compliance with the fiscal rules. It may also provide advice on fiscal policy and public finance management to the National Assembly on its own initiative. It also provides an opinion on the annual budget and the budget execution report. To help develop its role, it has signed Memoranda of Understanding with the Fiscal Councils in Serbia and Bulgaria. The establishment of the Fiscal Council is a significant change to the budgetary landscape in BiH.

At the State and Entity levels, the BFPs are generally sent to the respective parliaments for information only, although in the RS the only obligation is to publish the BFP. The BFPs do not require parliamentary approval.

\textsuperscript{186} The Fiscal Council is not an independent watchdog, as is the case in some EU member countries. It is a co-ordinating body that establishes the basis for the State, the FBiH, the RS and the BD to frame their individual Budgets.

\textsuperscript{187} Law on the Financing of the Institutions of BiH, Article 4.

\textsuperscript{188} Law on the Budget of the FBiH, Article 43.

\textsuperscript{189} FBiH Law on Debt 2007, Article 7.

\textsuperscript{190} Law on Fiscal Responsibility “Official Gazette of RS”, No. 62/18.

\textsuperscript{191} The RS Fiscal Council members were appointed by a Decision of the RS National Assembly at the 20\textsuperscript{th} Session on 20 July 2017.
Another feature of the BFPs is that they do not contain any non-financial information or discussion on policy initiatives for the period covered, linking the BFP to the respective wider policy agendas. Most of such detail is contained in the Economic Reform Programme (ERP) that is submitted each year to the European authorities, but the BFPs lack this element.

In recent years, the RS has revised the BFP tables in line with new information late in the year, prior to the annual budget being submitted for parliamentary approval. This is not done at the State level or in the FBiH.

The Covid-19 Pandemic affected outturns in 2020 and the credibility of the medium term plans. However, the medium-term forecasts for revenue and expenditure in 2019 were reasonably accurate. In 2019 the revenue outturn deviated by 3% in FBiH and RS and 4.5% at the State level from the forecasts in the BFPs two years previous, while the expenditure outturn deviated by 4% at the State level and in RS, and by 0.3% in FBiH\textsuperscript{192}.

**Conclusion**

The compilation of the BFPs is cumbersome and complex, requiring consultations between the various constituent elements at the State and Entity levels to devise the GFFBP, which informs the individual BFPs. In 2019, the GFFBP was only agreed in December, which meant that the BFPs were either not published or were prepared on an ad hoc basis. The BFPs are also not subject to parliamentary scrutiny. Fiscal rules and a fiscal council have been established in the RS, but are still not in place at the State level and in the FBiH. In the FBiH, the BFP still suffers from a lack of full integration of data from the sub-central government level to give a comprehensive picture.

\textsuperscript{192} The 2019 outturns were compared with the planned figures in the BFPs for 2018-2020.
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.

Overall, the value for the indicator ‘Quality of the annual budget process and budget credibility’ is 2.

### Indicator 6.2.1. 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 multiannual 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 2021 indicator value

<table>
<thead>
<tr>
<th></th>
<th>State level</th>
<th>FBiH</th>
<th>RS</th>
<th>BD</th>
<th>Bosnia and Herzegovina</th>
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#### Sub-indicators

<table>
<thead>
<tr>
<th>Sub-indicators</th>
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<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Operational alignment between the MTBF and the annual budget process</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2/4*</td>
</tr>
<tr>
<td>2. Reliability of the budget calendar</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1/4*</td>
</tr>
<tr>
<td>3. Transparency of the budget proposal before its adoption in parliament</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>2/8*</td>
</tr>
<tr>
<td>4. Quality in the budgeting of capital investment projects</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>1/5*</td>
</tr>
<tr>
<td>5. Parliamentary scrutiny of the annual budget</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1/5*</td>
</tr>
<tr>
<td>6. Transparency and predictability of procedures for in-year budget adjustments</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>2/4*</td>
</tr>
<tr>
<td>7. Credibility of revenue plans in the annual budget (%)</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>3/4*</td>
</tr>
<tr>
<td>8. Credibility of expenditure plans in the annual budget (%)</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>2/4*</td>
</tr>
</tbody>
</table>

**Total**

14/38

*Average of the State level, FBiH and RS.

Across the State and entity levels the budget procedures are similar in that they require the Council of Ministers or the respective government to adopt a three-year multi-annual plan at mid-year followed by an annual budget in November, with the respective parliaments required to adopt it in December.

In recent years, however, the budget timetable has not been adhered to in all cases. While this is partially understandable for 2020 due to the pandemic, there have been several missed budget deadlines in other years. In the RS, the budget for 2020 was only submitted to the Parliament in December 2019, under an urgent procedure, and passed that month. For 2021, the budget was only submitted to the Parliament on 17 December 2020 and adopted the same day. In the FBiH, the budget is required to be submitted to the

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193 Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-26=3, 27-32=4, 33-38=5.

194 The State Law on the Financing of the BiH Institutions, Official Gazette of BiH Nos. 61/04, 49/09 and 42/12; the FBiH Law on the Budget, Official Gazette of the FBiH Nos. 102/13, 9/14, 13/14, 8/15, 91/15 and 102/15; the RS Law on the Budget System Official Gazette of the RS Nos. 121/12, 52/14 and 103/15; the BD Budget Law, Official Gazette of the BD No. 17/08.
Government in October, but the budget for 2019 was only submitted to the Government on 12 December 2018, and the budget for 2020 was only finalised by the Government at end of November 2019. The budget for 2021 was submitted to the Parliament on 15 December 2020 and adopted in January 2021. At the State level, the Budget for 2019 was only adopted by the Parliament in December 2019, so for that year BiH depended on temporary financing. The 2020 budget was only adopted in July 2020, and temporary financing was required to bridge the gap. Again, for 2021, the BiH budget law had not been adopted by July 2021. In the BD, the budget for 2021 was only adopted in March 2021.

Even without these late submissions, the amount of time available to parliaments to scrutinise the budget is very short and not in line with best practice\(^\text{195}\), which recommends three months for the budget to be appraised.

The budgets at the State and Entity levels generally are confined to the central-government sector and exclude EBFs. However, a notable change in the FBiH in 2020 was the inclusion of the Pension and Disability Fund in the budgetary system, which was already the case in the RS. The change in the FBiH should help make the budget more transparent and comprehensive. However, there are still a number of significant EBFs outside the budget system in the RS and the FBiH. This is further complicated in the FBiH by the position of cantons and municipalities, which are also outside the budget system. For example, only about 50% of general government current expenditure in the FBiH is at the central-government level, and before integration of the Pension and Disability Fund, the percentage was much lower (approximately 20%). Unfortunately, inclusion of the Pension and Disability Fund in the budget system makes it difficult to compare budgets from 2020 with those before 2020 unless a revised-time series is published. In the RS, a number of institutions have their own resources which they control, and these are not included in the annual budget published and submitted to the Parliament. These are mainly educational institutions, prisons and the traffic agency.

The budget documentation contains macro-economic forecasts and details of the allocation of funds to budget users. In both the RS and the FBiH, the budget law is accompanied by an explanation of the budget, and in the RS the latest ERP is also included. However, items not included are an estimate of the budget outturn for the current year, information about long-term (greater than five years) revenue and expenditure, information on contingent liabilities and any debt target set for the coming year.

Another common issue is the lack of integration of capital budgets into the annual budgets. Capital expenditure is contained in the Public Investment Programme in the RS and the FBiH. In the RS, the Public Investment Plan is adopted by the Government, not by the Parliament, and the budget does not contain all capital spending (only BAM 44 million was included) or multi-annual commitments.

Cost benefit analysis on capital investment projects is not systematically conducted, and the selection of projects is not based on clear priorities or identification of benefits. In many cases, preparation of the cost benefit analysis is left to the external financing institution, rather than having a clear domestic imperative to require such analysis to compile priority projects. In the RS, a new framework on capital investment was adopted in 2019\(^\text{196}\). Among other things, this requires that a pipeline of priority projects be established and that project proposers have feasibility studies at the outset. The new system has not been in operation for long enough to judge if this will lead to better appraisal or prioritisation of schemes.

**Conclusion**

The organic budget laws specify the budget procedures, timetable and content. However, there have been significant failures to observe the budget calendar, thereby weakening budgetary discipline and respect for the budgetary law. Sufficient time is still not provided for parliamentary consideration of the budgets,


\(^{196}\) Regulation on the rules for the selection, evaluation and determination of priorities of public investment projects - OG 66/16 and RS Instruction on implementation of projects OG 102/19.
and there are still gaps in the budget documentation provided. There are also several large EBFs still outside the budgetary parliamentary process in the FBiH and the RS.

**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.

Overall, the value for the indicator ‘Reliability of budget execution and accounting practices’ is 3.

### Indicator 6.3.1. 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
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<th>Bosnia and Herzegovina</th>
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</thead>
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<tr>
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<td>RS</td>
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<td>BD</td>
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</tbody>
</table>

#### Sub-indicators

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Presence of a treasury single account (TSA)</td>
<td>2/2*</td>
</tr>
<tr>
<td>2. Frequency of revenue transfer to the TSA</td>
<td>1/1*</td>
</tr>
<tr>
<td>3. Frequency of cash consolidation</td>
<td>1/1*</td>
</tr>
<tr>
<td>4. Credibility of cash flow planning</td>
<td>1/2*</td>
</tr>
<tr>
<td>5. Budget classification and chart of accounts</td>
<td>1/2*</td>
</tr>
<tr>
<td>6. Frequency of bank account reconciliation for all central government bank accounts</td>
<td>2/2*</td>
</tr>
<tr>
<td>7. Availability of data on the stock of expenditure arrears</td>
<td>0/2*</td>
</tr>
<tr>
<td>8. Expenditure arrears (%)</td>
<td>1/3*</td>
</tr>
</tbody>
</table>

**Total**

9/15

*Average of the State level, FBiH and RS.

The State Level, the Entities and the BD have Treasury Single Accounts (TSAs) which are specified under the respective laws\(^{196}\), and the respective MoFs act as the treasury management agencies. In terms of coverage in the FBiH and the RS, a number of EBFs remain outside the TSA. In the FBiH, the Pension and Disability Fund was integrated into the TSA when the Fund was brought within the budget system in 2020, which was a significant change. However, this change still leaves funds such as the Health Insurance Fund and Employment Funds in the FBiH outside the budget system. In the RS, there are a

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\(^{197}\) Point conversion ranges: 0-1=0, 2-4=1, 5-7=2, 8-10=3, 11-13=4, 14-15=5.

\(^{198}\) Law on the Financing of the Institutions of BiH, Article 27; FBiH Treasury law 2016 (OG06/16), Article 17; RS Law on Treasury (OG 16/05); and, BD Law on the Budget, Article 23.
number of bodies with their own resources that are not encompassed within the budget system and are not fully integrated into the TSA. These bodies operate their own accounts, although they are supervised by the Treasury Management Department which also retains ownership of the accounts.

The respective treasury management departments are required to compile cash-flow forecasts for the year, and this is normally done after the budget is adopted. However, cash-flow forecasting continues to be weak. Inputs from budget users are limited, and the forecasts are done centrally by the treasury departments. In many ways, they act as cash-rationing systems rather than cash-flow forecasts. The forecasts are not broken down into broad categories such as pay and non-pay expenditure, capital and own resources. There is no common approach to updating the cash flows, with BiH updating cash flows monthly, and the FBiH and the BD updating them quarterly. In the RS, there is also no monthly updating, and the bodies with their own resources are not included in the cash-flow forecasts.

With respect to arrears, the information is inconsistent. At the State level, there are no arrears, and that is also the case at the central government level in the FBiH. In the RS, it is not clear what arrears information is available. In the data collected for this assessment, the authorities gave an arrears figure of 1.3% of the budget, but on closer examination this appears to include normal liabilities yet to be paid and amounts that have not been paid on the due date. General government data on arrears is not readily available in the FBiH and the RS. A complication in the case of the FBiH is that information from cantons is not readily available. Arrears at other levels of general government have been estimated to be substantial\textsuperscript{199} with estimates of 4% of GDP in 2018 in both the FBiH and the RS.

There is an acknowledgment that arrears in different sectors of the general government is an issue, and both the FBiH and RS Governments have committed to gathering greater information and addressing the arrears position under the International Monetary Fund (IMF) programmes of support.

For a number of years, at the State level, the FBiH and the RS, coding has been based on administrative, economic (at least “Group” level of the Government Finance Statistics standards), and functional (but not sub-functional) classifications, using Classifications of the Functions of Government (COFOG) standards or a classification that can produce consistent documentation comparable with COFOG standards.

Cash consolidation is done on a daily basis, and bank accounts are also reconciled regularly, daily in the FBiH and monthly in the RS and the State level.

**Conclusion**

A TSA system is established at the State level, in the Entities and the BD, with cash consolidation and bank-account reconciliation performed regularly. However, cash-flow projections are made on a quarterly basis only and are generated at the central level, with little input from budget users. The measurement of arrears and reporting remains problematic, particularly for the wider public sector, with little data available.


MONITORING REPORT: BOSNIA AND HERZEGOVINA NOVEMBER 2021 © OECD 2021
PUBLIC FINANCIAL MANAGEMENT
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.

Overall, the value for the indicator ‘Quality of public debt management’ is 2.

<table>
<thead>
<tr>
<th>Indicator 6.4.1. Quality of public debt management</th>
</tr>
</thead>
<tbody>
<tr>
<td>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 gross domestic product (GDP), and the difference between public sector debt outturn and target.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
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<tr>
<td>FBIH</td>
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<tr>
<td>RS</td>
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<td>BD</td>
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<td>Bosnia and Herzegovina</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Existence of requirements and limitations for borrowing in the legal framework</td>
<td>2</td>
</tr>
<tr>
<td>2. Existence and minimum content of a public debt management strategy</td>
<td>3</td>
</tr>
<tr>
<td>3. Clarity of reporting on public debt</td>
<td>1</td>
</tr>
<tr>
<td>4. Risk mitigation in the stock of public debt</td>
<td>2</td>
</tr>
<tr>
<td>5. Difference between public sector debt outturn from target (%)</td>
<td>3</td>
</tr>
<tr>
<td>6. Public debt as a share of GDP (%)</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>12/22</strong></td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS.

The responsibility for the foreign debt management function is a competence of the MoFT at the State level. The MoFs in the FBIH and the RS and the FD in the BD carry out domestic borrowing, and at sub-Entity level, cantons and public enterprises can also borrow. There have been no significant changes to the debt laws at the State or Entity levels.

The general government sector debt (State and Entity levels) is estimated to be BAM 12.2 billion (2020) or 35% of GDP. Of this 71.7% (BAM 8.8 billion) is foreign debt, with 28.3% (BAM 3.5 billion) domestic debt. Of the foreign debt, 56% is attributable to the FBIH and 42% is attributable to the RS. However, for domestic debt, the FBIH share is smaller, at 32%, while the RS is responsible for 67%. Within the Entities, the level of debt as a percentage of GDP is not high. For 2019 it was 26% in the FBIH and 49% in the RS. Figure 1 shows the level of foreign and domestic debt between 2015 and 2020.

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200 Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-16=3, 17-19=4, 20-22=5.

201 Law on Debt, Borrowing and Guarantees of BiH, 2005, OG Nos. 52/05 and 103/09, Article 4.


Foreign debt is almost wholly owed to multilateral organisations (approx. 80% in 2020) and comprises mainly debt denominated in EUR, USD and SDRs²⁰⁴.

The State level and the Entities all publish three-year Debt Management Strategies²⁰⁵ which detail the debt portfolio with a breakdown of the debt structure, the internal and external debt, the currencies in which debt is owed and interest rate details. However, it is noted that the State-level Debt Strategy was only published in June 2020, although the period covered by the document was 2019-2022. Each of the strategies gives a broad outline of the overall main principles to be followed in the period covered, including aims such as extending the Average Weighted Maturity (FBiH), reducing external debt for domestic debt (RS) or extending the debt maturity profile (State level). They also give details of debt maturity, refer back to the previous strategy and give some details on development of the debt over recent years.

A number of sub-central government bodies are not covered within the FBiH and RS Strategies. Moreover, they are not based on European System of Accounts standards, and thus the ERP is the only document that sets out estimates of the overall general government sector figures in relation to debt. No targets are set for debt levels in the annual budget, which makes it more difficult to judge the success of the State level and Entities policy on debt.

At the State level and the RS the Strategies covers four years, while in the FBiH it covers just three years. There is also a difference in the time of publication. In the RS the Strategy covers 2020 to 2023 and in FBiH the strategy covers 2021 to 2023, and they were published in February 2021. At the State level, the current Strategy covers 2019-2022, and it was published in June 2020, but has not yet been updated.

In terms of borrowing, there are restrictions on guarantees being given to SOEs. However, the SOEs can borrow, and given the size of the SOEs in the countrywide economy, any prospect of non-payment of debt may have an impact at the State or Entity levels. There is not enough data or monitoring of this risk, and the IMF has highlighted the issue in its latest survey²⁰⁶. In addition, in the FBiH there is an acknowledgment that borrowing by sub-central government levels, while not a direct obligation on the central government,
could adversely impact the FBiH\textsuperscript{207} if a default were to occur. However, the amounts possibly involved are not quantified in the Strategy. In the RS Strategy, there are some details on unguaranteed borrowing by local authorities and EBFs\textsuperscript{208}, but there is no acknowledgment that any default may adversely impact the central authorities. This aspect of unguaranteed debt at non-central government levels has a heightened importance in the aftermath of the current pandemic and its likely economic impact.

Annual reports on debt are published. In the Entities, this is done in May or June of the following year, and at the State level it is in the first quarter\textsuperscript{209}. These give details of the debt portfolio, including details on guarantees outstanding and the normal details of currency and interest rates being charged, as well as debt-maturity profiles and details of treasury auctions during the year. They are audited by the relevant Supreme Audit Institutions (SAIs).

The lower sub-indicator values for debt-risk mitigation arise from the fact that the portfolios at the State and Entity levels have unhedged exposure to foreign debt, with more than 10% of debt maturing in the coming year and a large exposure to floating-rate debt\textsuperscript{210}.

The giving of guarantees is regulated by legislation at the State and Entity levels. In both the RS and the FBiH, there is a limit placed on borrowing by local authorities\textsuperscript{211}. These laws restrict borrowing by requiring that borrowing cannot exceed a percentage of revenue at a local level. Cantons can borrow no more than 5% of the previous year’s revenues in the FBiH, while in the RS local authorities are limited to 18% of the previous year’s revenue.

**Conclusion**

Debt is actively managed at the State level and in the Entities. Annual updates on multi-annual strategies are published, with analysis of the debt obligations, although there are still a number of gaps. However, risk mitigation is weak, and data on a government-wide basis is limited.

\begin{itemize}
  \item \textsuperscript{207} FBiH Debt Management Strategy 2021-2023 para. 4.5.2.
  \item \textsuperscript{208} RS Debt Management Strategy 2021-2023 Annex 1 p. 18.
  \item \textsuperscript{209} RS Report on Debt 2019; FBiH Information on Debt 2020, March 2021.
  \item \textsuperscript{210} The floating-rate debt is close to 20% in the RS and 40% in the FBiH. Over 80% of foreign currency debt is unhedged in the FBiH and 24% the in RS.
  \item \textsuperscript{211} RS Debt Law, Articles 17, 46 and47; FBiH Law on Borrowing and Guarantees 2007, Article 7.
\end{itemize}
Principle 5: Transparent budget reporting and scrutiny are ensured.

Overall, the value for the indicator ‘Transparency and comprehensiveness of budget reporting and scrutiny’ is 2.

<table>
<thead>
<tr>
<th>Indicator 6.5.1. Transparency and comprehensiveness of budget reporting and scrutiny</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
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<td>RS</td>
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<td>Bosnia and Herzegovina</td>
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</tbody>
</table>

**Sub-indicators**

<table>
<thead>
<tr>
<th>Comprehensiveness of published information</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Quality of in-year reports of government revenue, expenditure and borrowing</td>
<td>3.5 1 3.5 2.5 3/7*</td>
</tr>
<tr>
<td>2. Quality of the annual financial report of the government</td>
<td>5 3 1 3 3/7*</td>
</tr>
<tr>
<td>3. Quality of annual reports of state owned enterprises, extra-budgetary funds and local government</td>
<td>N/A 212 1 1 3 1/5*</td>
</tr>
<tr>
<td>4. Clarity of national accounting standards and consistency with international standards</td>
<td>2 2 3 1 2/4*</td>
</tr>
<tr>
<td>5. Existence of reporting on fiscal risks identified in the budget</td>
<td>0 0 0 0 0/1*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Scrutiny and oversight using published information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Quality of the annual financial reporting on the use of public finances</td>
<td>1 1 1 1 1/3*</td>
</tr>
<tr>
<td>7. Timeliness of submission of the SAI report to parliament</td>
<td>1 1 1 0 1/2*</td>
</tr>
<tr>
<td>8. Timeliness of parliamentary discussion on the report of the SAI</td>
<td>3 2 3 1 3/3*</td>
</tr>
</tbody>
</table>

| Total213 | 14/32 |

*Average of the State level, FBiH and RS.

In-year budget execution reports are prepared quarterly in the BD, at State level and in the FBiH but are not published, while in the RS monthly reports are published (although not within four weeks of the month end). The reports do not show data by ministry or by other budget users, and there is little, if any, explanation or commentary on budget execution. There is no forecast for the expected implementation of fiscal risks identified in the budget.

212 There are no state-owned enterprises, extra-budgetary funds and local government at the State level.

213 Point conversion ranges: 0-7=0, 8-12=1, 13-17=2, 18-22=3, 23-27=4, 28-32=5.
the main budget aggregates prepared at the beginning of the year against which budget execution during the year can be measured. Half-yearly reports are compiled at both the State level and in the Entities.

With respect to local authorities, in the FBiH data is included in the quarterly reports, but no separate consolidated reports are prepared for the local authorities. In the RS, quarterly reports for local authorities are compiled, but they are not published. The State level and the BD have no local administrations.

In relation to SOEs, none of the MoFs publish financial information on the SOEs individually or on a consolidated basis. In the RS, the SOEs are required to submit financial information to the appropriate line ministry, but no such requirement exists in the FBiH. At the State level, reports from the SOEs are submitted to the Parliament, not the MoF.

EBFs are not subject to reporting to MoFs. In the RS, these funds are partly included in the quarterly reports published by the MoF, but not all funds are included (health funds are excluded). In the FBiH, the quarterly reports include EBFs.

Annual financial statements are prepared and published at the State and Entity levels and are subject to audit by the relevant SAI. With the exception of the RS, annual financial statements are published within six months of the end of the year. All the financial statements mirror the budget format, but none include all Instrument for Pre-accession Assistance (IPA) funding or any non-financial performance information. The RS statement has a review of assets, but this is not the case for the FBiH or at the State level. Capital expenditure is recorded in the statements, except for the FBiH, where capital spending is the subject of a separate report. Explanations of variations are not comprehensive or indeed extensive and, in some cases, such as the RS, the outcome is compared to the rebalanced budget rather than the original budget\(^\text{214}\). In the FBiH and at the State level, there is a lack of explanation of the variation from the planned budget.

While all the reports are submitted to their respective parliaments there is little evidence of parliamentary consideration of them. In the FBiH, there are no published minutes of parliamentary consideration of the report, although the execution report and the audit report were both submitted to the Parliament. Usually, at the State and Entity levels, the financial statement is submitted first, before the annual report, but in the BD the 2019 budget execution report still had not been published by April 2021.

Fiscal risk is also an area where there is no coverage in the budget documentation. In the RS, a Fiscal Risk department has been established, but it is too early to assess its effectiveness or its contribution to better budgetary processes.

There has been no change in the accounting standards that are used in the public sector. Accounting standards are defined in the various laws. At the State level, modified accrual accounting is specified\(^\text{215}\), while in the FBiH and the RS, International Public Sector Accounting Standards are specified\(^\text{216}\).

**Conclusion**

In-year reporting of budget execution is mainly quarterly and not comprehensive. No estimate is made at the beginning of the year of the budget execution profile against which progress can be measured on a monthly basis. Monitoring and reporting on fiscal risks is also not in place. Annual reports contain some information but are not expansive, and parliamentary scrutiny of in-year budget execution and the annual financial statements is limited.

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\(^{214}\) RS rebalanced the budget in 2019 and 2020.

\(^{215}\) The Law on the Financing of the Institutions of BiH, Official Gazette of BiH Nos. 61/04, 49/09 and 42/12, Articles 2 and 19.

\(^{216}\) The FBiH Law on the Treasury, Official Gazettes Nos. 58/02, 19/03, 79/07 and 26/16, Article 11.2; The RS Law on accounting and auditing, Official Gazettes No. 94/15 and 78/20; Rulebook on applying international accounting standards for public sector, Official Gazettes No. 128/11.
Internal control and audit

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.

Overall, the value for the indicator ‘Adequacy of the operational framework for internal control’ is 3.

### Indicator 6.6.1. Adequacy of the operational framework for internal control

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.

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Existence of policy for the development of internal control</td>
<td>4/6*</td>
</tr>
<tr>
<td>2. Completeness of the regulatory framework for internal control</td>
<td>4/5*</td>
</tr>
<tr>
<td>3. Comprehensiveness and regularity of the annual review and reporting on internal control</td>
<td>3/5*</td>
</tr>
</tbody>
</table>

Total\(^{217}\) 11/16

*Average of the State level, FBiH and RS.

In the 2017 monitoring report, the State level and the Entities were at different stages of development with internal control (IC), but were moving along similar paths with slight variations. The State level, the FBiH and the RS are now at a similar stage for their operational frameworks for IC. Their legislative bases\(^ {218}\) for IC are supported by rulebooks including internal control standards and guidance on risk management among others. For the BD, development lags behind the others, but existing legislation\(^ {219}\) covers elements of the required framework for IC\(^ {220}\).

There is a legislative basis for the establishment of CHUs at the State level and in the Entities to oversee development, including monitoring and reporting on progress with implementation. However, while the others are well established, the CHU in the BD was only set up in 2020 and hence did not have work plans

\(^{217}\) Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.


\(^{220}\) BD Budget Law refers to the international framework for internal control published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
in place. The BD has begun to issue guidance and rulebooks on the implementation of IC\textsuperscript{221} but has not yet developed the full range that is in place at the State level and in the Entities.

Current strategies for further development of IC now exist at the State level, FBiH, RS and BD\textsuperscript{222}, covering differing periods up to 2027. Previously, the RS still relied on an out-of-date strategy from 2010\textsuperscript{223}. The detailed actions and precise timings in the strategies vary, but the priorities and objectives have common threads running through them, including managerial accountability and risk management\textsuperscript{224}.

While most of the actions in relation to IC involve the relevant CHU, responsibility for many of the actions also involves budget users. This is essential to achieve effective managerial accountability, as it requires the active involvement of budget users and is not something that can easily be imposed from outside.

The State level and the Entities have been supported in the development of the strategies and their implementation of IC by a Technical Assistance project, Improving Public Internal Financial Control\textsuperscript{225}, which is due to end in October 2021.

More detailed annual work plans were in place for the CHUs at the State level, the FBiH and the RS for 2020, and they also issued reports on their achievements for the year. SIGMA’s review of these showed differing levels of work-plan completion, with the State level at 38% and the FBiH at 88%. The CHU in the BD was set up during 2020 and hence did not have a work plan for the year against which to measure the achievements set out in their annual report.

The concepts involved in the strategies, managerial accountability and risk management are broadly based and usually require legislative support beyond that provided directly for IC. A detailed and up-to-date analysis of the coherence of IC legislation with other horizontal legislation can identify problems that need to be resolved. Neither the State nor the Entities had such a document. It was explained that the issue of coherence was considered when developing legislative changes and strategies for public internal financial control (PIFC) or PFM, but this does not provide the assurance of a separate analysis. In practice only the PIFC Strategy for the State level mentions the wide range of legislation that can impact on IC\textsuperscript{226}, but it does not confirm that their provisions support it.

The State level, the FBiH and the RS have established processes for the CHUs to monitor IC implementation and report on it each year. Each CHU submits its report to the Council of Ministers or the respective Entity Government, and the conclusions issued include instructions for institutions to continue IC implementation and for the CHU to continue its support\textsuperscript{227}. BD has plans for a similar process\textsuperscript{228}.

\textsuperscript{221} As an example: Rulebook on the form, content, manner of compilation, deadlines for submission of the statement of fiscal responsibility and reporting deadlines, December 2020.

\textsuperscript{222} Strategy for development of internal financial control in institutions of Bosnia and Herzegovina for the period 2020-2025, February 2020; Strategy for the development of the internal financial control system in the public sector of the Federation of Bosnia and Herzegovina for the period 2021-2027, April 2021; Strategy for development of the system of internal financial control in the public sector of the Republika Srpska for the period 2021-2025, March 2021; Strategy for development of the internal financial control system in the public sector of the Brčko District of BiH for the period 2021-2025, October 2020.

\textsuperscript{223} Strategy for the establishment and development of internal finance control in the public sector in Republika Srpska, April 2010.

\textsuperscript{224} For example, RS Strategy 2021-2025, Section 6 Action Plan, Area 1 FMC, Strategic objective: financial management and control (FMC) focussed on the most significant risks in PFM.

\textsuperscript{225} Technical Assistance project under the EU IPA programme: Improving Public Internal Financial Control in Bosnia and Herzegovina (2018 – 2021), Reference EuropeAid/138327/DH/SER/BA, Contract 2018/400-558.

\textsuperscript{226} BiH Strategy for development of internal financial control 2020-2025, Section 3.2.1. Legal Framework.

\textsuperscript{227} State Council of Ministers Conclusion No. 05-16-1-9069/20, May 2020; FBiH Government Conclusion No. 1021/2020, July 2020; and, RS Government Conclusion No. 04/1-012-2/1324/20, May 2020.

\textsuperscript{228} Based on Fiscal Responsibility Statements required by the Rulebook on the form, content, manner of compilation, deadlines for submission of the statement of fiscal responsibility and reporting deadlines of December 2020.
### Table 1. Completeness of IC reporting in central-government sector

<table>
<thead>
<tr>
<th></th>
<th>State level</th>
<th>FBIH</th>
<th>RS</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central-government institutions required to report on IC development</td>
<td>75</td>
<td>116</td>
<td>116</td>
<td>307</td>
</tr>
<tr>
<td>Central-government institutions reporting on IC development in 2020</td>
<td>61</td>
<td>100</td>
<td>75</td>
<td>236</td>
</tr>
<tr>
<td>Percentage reporting 2020</td>
<td>81%</td>
<td>86%</td>
<td>65%</td>
<td>77%</td>
</tr>
<tr>
<td>Percentage reporting 2016</td>
<td>93%</td>
<td>N/A</td>
<td>N/A</td>
<td>93%</td>
</tr>
</tbody>
</table>

Sources: Ministry of Finance and Treasury at the State level, Ministry of Finance of the Federation of Bosnia and Herzegovina, Ministry of Finance of the Republika Srpska. There is no comparative information for the BD as collection of the data has not commenced. Similarly, comparative data from 2017 was not collected in the FBiH or the RS.

Newly introduced monitoring processes in the FBiH and the RS are the principal reason for the improved value for sub-indicator 6.6.1.3. These show that, of the institutions required to report on progress with the implementation in central government sector, 86% (FBiH) and 65% (RS) actually provided data in 2020. The equivalent figure for the State level has dropped from 92% to 81% since the 2017 monitoring report. Overall, this shows that, in the central-government sector, there is an incomplete picture of progress being reported on implementation of IC.

In addition, the FBiH and the RS report that legislation requires over 1,000 institutions outside the central government sector to implement IC. For the RS, the CHU 2020 Annual Report shows that only 320 of those have appointed a person responsible for implementing IC and financial management and control (FMC), and 227 of those have submitted data to the CHU. For the FBiH, the CHU 2020 Annual Report shows that 568 institutions have submitted data and 436 have appointed a co-ordinator for FMC. This is further evidence that an incomplete picture of IC implementation is being reported to the Council of Ministers or the respective Entity Governments.

### Conclusion

The regulatory framework for IC at the State, FBIH and RS levels has been enhanced by recent changes and is largely complete. The BD has made progress with the establishment of a CHU and some supporting rulebooks. The State level, the FBiH and the RS monitor and report on progress with IC implementation, but monitoring and reporting are not comprehensive, as information is not provided by all relevant institutions. Plans for monitoring in the BD are in place for 2021. For the State level and all Entities, there are strategies in place to guide further development of IC until at least 2025.
Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

Overall, the value for the indicator ‘Functioning of internal control’ is 0.

**Indicator 6.7.1. 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State level</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FBiH</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>RS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>BD</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Bosnia and Herzegovina</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Number of first level budget organisations that are neither ministries nor constitutional bodies</td>
<td>0</td>
</tr>
<tr>
<td>2. Alignment between management and budget structures (%)</td>
<td>0</td>
</tr>
<tr>
<td>3. Credibility of controls for avoiding commitments above the expenditure ceilings</td>
<td>2</td>
</tr>
<tr>
<td>4. Availability of reporting of total cost and physical progress of major investment projects</td>
<td>0</td>
</tr>
<tr>
<td>5. Effectiveness of basic managerial accountability mechanisms for central government bodies</td>
<td>0</td>
</tr>
<tr>
<td>6. Delegation of decision making authority within ministries</td>
<td>0</td>
</tr>
<tr>
<td>7. Regularity and completeness of risk management practices</td>
<td>0</td>
</tr>
<tr>
<td>8. Existence of reporting on irregularities</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2/23</td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

Institutions have been required to implement IC at the State level since 2012, and in the FBiH and the RS since 2016. Arrangements are not yet at that stage in the BD.

Legislation at the State level and the Entities seeks to introduce IC based on the Principles of the Committee of Sponsoring Organizations (COSO)\(^{230}\). This structure is reflected in the extensive self-assessment questionnaires that the State level, the FBiH and the RS require each institution to submit and the structure of the subsequent CHU reports to the Council of Ministers or the respective Entity Government each year. While the basis of the information is the same, there are slight variations in the specific questions asked and the way that the information is presented. This limits the ability to make direct

\(^{229}\) Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

\(^{230}\) Includes the definitions for the five components of the IC framework: control environment; risk assessment; control activities; information and communication; and monitoring activities.
comparisons, although there are common themes. There are currently no arrangements for verification of the information submitted in these self-assessment returns.

The introduction of managerial accountability is one of the key objectives for all the development strategies. The ability within the budget structure to identify budgets for senior managers and the availability of information on performance are among the preconditions for implementation of managerial accountability. The extent to which authority for decision-making within institutions has been delegated in practice is an indicator of implementation.

Budget alignment with management structures enables managerial accountability by supporting the delegation of budgets and programme activities to the relevant sectors and senior managers within budget users. The percentage of first-level budget users with alignment was requested from all the Entities and, while information was provided by the State, the FBiH and the BD, none included the required supporting analysis. The RS reported that there was no alignment and therefore offered no analysis. For the State, the FBiH and the RS, ministries develop plans and activities on a programme basis, but the legislatures approve the related budgets on a line-item basis, which does not facilitate alignment.

With respect to major investment projects, the State level and the Entities report monthly or quarterly on financial progress with projects using versions of the Project Information Management Information System. The BD relies on its ledger system. However, reporting on the physical progress of major investment projects was not included in any of the documents submitted.

SIGMA examined a sample of five institutions in each of the State, the FBiH and the RS against seven criteria covering the extent to which authority to approve administrative and financial procedures was in practice delegated below the level of minister or secretary general. Delegation or transfer of authority is permitted within the framework for IC for each level of governance, with the head of institution still retaining the ultimate responsibility in law. The State had the highest level of delegations, with four out of five institutions delegating a small number of areas, but the overall level of delegation was low. For the FBiH and the RS, this exercise found very low levels of delegation. Overall, the exercise revealed that there was no financial delegation.

The CHUs’ annual monitoring of the level of delegation asked more broadly whether delegation had been established. For the State level, 79% of institutions that returned data to the CHU indicated that this was the case, while for the FBiH the share was 39%. The RS provided a more granular analysis across 11 categories of institutions, with 5 of these categories reporting that 90% or more have established delegation, with ministries reporting 77% and other central-government-level institutions 60%.

A significant number of first-level budget users at the State, FBiH and RS levels are not ministries, constitutional bodies or required by the Office of the High Representative for Bosnia and Herzegovina. For the BD, with fewer organisational units, this is not the case.

The relationship between parent ministries and their subordinate bodies is important, as ministries will set overall policies, some of which will be delivered by the subordinate bodies. However, the ministry, and the minister specifically, will retain overall responsibility, so arrangements need to be in place to ensure accountability. The relationship between a sample of ministries at each of the State level, the FBiH and the RS and a total of eight of their subordinate bodies was assessed against criteria covering three

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231 The different scale and structure of the BD meant that this exercise was not relevant for them.

232 State-level Questionnaire Section Organisational structure, powers and responsibilities, reporting system Question 38.

233 FBiH Questionnaire Section Organisational structure, delegation of authorisations and responsibilities, reporting system Question 10.

234 RS Questionnaire Section Organisational structure, powers and responsibilities, reporting system Question 14.

235 All data derived from respective CHU Annual Reports for 2020.

236 The different scale and structure of BD meant that this exercise was not relevant for them.
stages: the inclusion of agreed objectives and measurable targets in the annual plan of the subordinated body; monitoring of progress towards objectives; and the inclusion of outcomes against targets in the subordinated body’s annual report with feedback from the ministry. The assessment was based on a review of documents requested by SIGMA, with 75% of them provided by the State and the RS, but only 33% by the FBiH. Overall, the State, the FBiH and the RS met none of the criteria for any of the subordinated bodies.

Risk management is a core COSO principle\(^\text{237}\) and is the basis for developments included in the new strategies. The State issued risk management guidelines in 2015\(^\text{238}\), with the Entities following later when IC legislation had been enacted. Detailed guidance is also included in the IC implementation manuals. The risk registers for 2020 from a sample of 15 institutions\(^\text{239}\) were examined to ensure that risks were assessed each year and were based on organisational objectives, that there were risk mitigation measures and that risks had owners. Two institutions in the FBiH had not introduced risk management in 2020, and one at both the State level and the RS did not provide documents for assessment.

SIGMA sought additional information on risk management, including evidence that risks and risk-mitigation activities had been reported throughout organisations during 2020. Few organisations provided such information, and some referred only to gathering risks for the annual return to the CHU. An exception was the State-level Ministry of Justice, which includes its risk register on its website, sharing risk information with both staff and public. Overall, these findings support the view that risk management is still an annual exercise rather than a management activity that is regularly monitored and updated during the year as risks evolve. In addition, some risk registers submitted had been produced by IA for the organisation. It is important that risk registers reflect management’s views on the risks that the organisation faces in achieving its objectives.

The CHUs’ annual monitoring through self-assessment questionnaires indicated that 87% of institutions at the State level\(^\text{240}\) and 31% in the FBiH\(^\text{241}\) had established risk registers. The RS\(^\text{242}\) again provided a more granular analysis across 11 categories of institution, with 5 of these categories reporting that 60% or more had established risk registers, with the ministries reporting 54% and other central-government-level institutions 60%\(^\text{243}\).

One indicator of the effectiveness of the system of IC is the ability to incur financial commitments beyond the funding available and the existence of arrears. Sound accounting and treasury controls should restrict the ability to incur arrears. From meetings with the State level, in the FBiH and the RS, it was ascertained that appropriate controls remained in place in the central-government sector during 2020. No arrears were recorded in the in the State level, the FBiH and the RS accounts, and data on arrears was not published. However, arrears are believed to exist at lower levels of government within the Entities, as well as in the SOEs. On a general government sector basis, data on arrears is normally not recorded or published centrally, making it impossible to assess the effectiveness of commitment controls in practice outside central government sector in the FBiH and the RS.

\(^{237}\) International framework for internal control published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

\(^{238}\) Guidelines for the Implementation of Risk Management in BiH Institutions, Official Gazette of BiH No. 29/15, March 2015.

\(^{239}\) Five institutions from each of the State level, the FBiH and the RS.

\(^{240}\) FBiH Questionnaire, Section Risk management, Question 59.

\(^{241}\) RS Questionnaire, Section Risk management, Question 3 (c).

\(^{242}\) All data derived from the respective CHU Annual Reports for 2020.
One benefit of an effective system of IC is that it should enable institutions to detect, investigate and report irregularities. Legislation establishing the framework for IC at both the State level\textsuperscript{244} and in the FBiH\textsuperscript{245} includes a definition of irregularity and requires heads of institutions to minimise the risks concerned. The RS\textsuperscript{246} does not define the term irregularity but includes it in the structure of FMC and tasks the heads of institutions and the heads of internal audit with understanding and managing the related risks. There are no similar legal provisions for the BD. We examined the procedures for irregularities and the number of cases that were reported in 2020 for a sample of 15 institutions. Only three of the sample institutions were able to provide detailed internal guidance for staff\textsuperscript{247}, and three again provided data on the irregularities identified in 2020\textsuperscript{248}. Two of the three rulebooks provided focussed primarily on corruption, rather than the wider concept of irregularity.

**Conclusion**

At the State, FBiH and RS levels, institutions are at a broadly similar level of development. The implementation of internal control lags behind the development of the overall framework. There is little evidence of delegation being used in practice, and not all institutions have introduced risk management. Where risk management arrangements are in place, it appears to be an annual exercise rather than a management activity. For the BD, the framework itself is less developed, so institutional arrangements are only at a formative stage.

\textsuperscript{244} State Law on Financing of Institutions of 2004 as amended at Articles 2(1)(ff) and 33d “Taking action against irregularity and fraud”.

\textsuperscript{245} FBiH Law on Financial Management and Control, 2016, Articles 3(14) and 17.

\textsuperscript{246} RS Law on Internal Financial Control of 2016, Article 39.

\textsuperscript{247} State-level MoFT and Tax Administration and RS Tax Administration.

\textsuperscript{248} State-level MoFT and Tax Administration and FBiH Tax Administration.
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.

Overall, the value for the indicator ‘Adequacy of the operational framework for internal audit’ is 3.

<table>
<thead>
<tr>
<th>Indicator 6.8.1. Adequacy of the operational framework for internal audit</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
<tr>
<td>A separate indicator measures the implementation of the framework and the results achieved.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>FBIH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Adequacy of the regulatory framework for internal audit</td>
<td>4</td>
</tr>
<tr>
<td>2. Organisational capacity for internal audit</td>
<td>4</td>
</tr>
<tr>
<td>3. Co-ordination, development and guidance of the internal audit system</td>
<td>3</td>
</tr>
<tr>
<td>4. Existence of a system for quality assurance for internal audit</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10/18</strong></td>
</tr>
</tbody>
</table>

*Average of the State level, FBIH and RS.

The BD is only in the initial stages of setting up IA, with legislation passed in 2019\(^{250}\), the CHU set up in 2020 and IA staff still to be recruited. The plan is to have a centralised unit for the whole of the BD. Given the size of the BD, this is an appropriate plan enabling the single unit to have a critical mass of staff and suitable status. This stage of development means that many of the elements required are not yet in place.

A regulatory framework is in place for IA at the State level\(^{251}\), in the FBIH\(^{252}\) and the RS\(^{253}\) that applies broadly to ministries, agencies, funds, cantons and municipalities (subject to rulebooks on the criteria for establishing IA units\(^{254}\)). The IA laws establish the role, independence and method of working of IA in line with the IPPF\(^{255}\). In terms of independence, the laws require direct reporting to the head of the institution, access to information and premises, and the consent of the CHU for appointment and dismissal of the

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\(^{249}\) Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

\(^{250}\) BD Law on the Budget, 2019, Articles 17 and 18.

\(^{251}\) Law on Internal Audit in BiH Institutions of 2008 as amended.

\(^{252}\) FBIH Law on Internal Audit in the Public Sector of 2008 as amended.

\(^{253}\) RS Law on Internal Control in the Public Sector of 2016.

\(^{254}\) Included in the RS Law on Internal Control in the Public Sector of 2016 at Article 19.

\(^{255}\) IPPF developed by the Institute of Internal Auditors and updated in 2017.
heads of IA units. Regarding methods of working, the laws require strategic and annual planning, professional conduct of IA assignments and reporting. These are all as required by the IPPF.

The more recent regulatory framework for IA in the BD includes the obligation to set up IA and the need for its functional independence. There is also provision for the drafting of a rulebook of criteria for determining which organisations need to set up IA units, although this may not be required if the plan for a single centralised unit is implemented. However, there is currently no legal backing for IA staff access to information and premises, the appointment and dismissal of the head of the IA unit, or the working methods of IA in comparison with the other Entities.

As with IC, there is a legislative basis for the establishment of CHUs covering IA at the State Level and in the Entities. At the State level, the FBiH and the RS this involves oversight of development as well as monitoring and reporting on progress with implementation. The CHU in the BD was only set up in 2020, and its legal obligations in relation to IA are limited to promotion and application of international standards and training.

Staffing of the CHUs in the FBiH and the RS remains low, hampering development for IA and IC. The FBiH now has 13 systematised positions, of which 5 are staffed, while the RS has 10 systematised positions, of which 4 are staffed. At the State level, the CHU has 11 systematised positions, of which 10 are staffed.

Strategies for further development of IA exist at the State level, the FBiH, the RS and BD, covering varying periods up to 2027. The strategies vary, but common themes for the State level, the FBiH and the RS are updating risk-based methodologies, with a focus on adding value in areas of strategic importance to auditees and filling vacant posts. However, only the RS includes external quality assessment, which is required under the IPPF. While most of the actions in relation to IA involve the relevant CHU, responsibility for some actions, such as staffing issues, also involves budget users. Given the limited state of development of IA in the BD, their Strategy concentrates on establishing the IA function and providing the rulebooks for its operation.

Development of the Strategies and the implementation of IA have been supported by a Technical Assistance project, Improving Public Internal Financial Control, which is due to end in October 2021.

At the State level, FBiH and RS, each of the CHUs had a detailed annual work plan for 2020 and also issued a report on their achievements for the year. Our review of these showed differing levels of work plan completion, with the State level at 50% and the RS at 85%. The CHU in the BD was only formed during 2020, so it did not have work plans for the year, but it did prepare a report on the year’s achievements.

With the exception of the BD, the legal requirements are supported by IA standards, manuals, codes of ethics and charters developed by the CHUs, while the BD has plans for such documents. The IA manuals are broadly compliant with the IA Laws and the IPPF standards, but they do not cover external quality...

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256 BD Law on the Budget, 2019, Articles 20(d) and 20(i).

257 Strategy for development of internal financial control in institutions of Bosnia and Herzegovina for the period 2020-2025, February 2020; Strategy for the development of the internal financial control system in the public sector of the Federation of Bosnia and Herzegovina for the period 2021-2027, April 2020; Strategy for development of the system of internal financial control in the public sector of the Republika Srpska for the period 2021-2025, March 2021; and, Strategy for development of the internal financial control system in the public sector of the Brčko District of BiH for the period 2021-2025, October 2020.

assurance\textsuperscript{259}. This gap has been recognised, and the CHUs are working with the Technical Assistance project to develop a Framework Quality Control methodology for IA for publication in 2021.

A Continuing Professional Development programme to update internal auditors’ professional knowledge and skills is a mandatory requirement of the IPPF, and these are now in place at the State level and in the RS. Due to the pandemic, a number of the activities were held on line in 2020. For the FBiH, such a programme is described as being “in preparation”\textsuperscript{260}.

Previously, meetings were held regularly between the CHUs and the heads of IA units (HIAs) as a group to discuss common issues about implementing the methodology or improvements that could be made to it. For 2020, evidence has been provided of a variety of training events that included HIAs, meetings between the State-level CHU and individual IA units or round-table discussions organised by the Technical Assistance project\textsuperscript{261}. While these will have been useful in their own right, they do not fulfil the same purpose as the HIA meetings to discuss specific State-level or Entity-wide issues.

### Table 2. Current state of play on internal audit in the central-government sector

<table>
<thead>
<tr>
<th>Category</th>
<th>State level</th>
<th>FBiH</th>
<th>RS</th>
<th>Total</th>
<th>Percentage 2021</th>
<th>Percentage 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutions required to establish IA</td>
<td>19</td>
<td>19</td>
<td>25</td>
<td>63</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Units established</td>
<td>18</td>
<td>13\textsuperscript{1}</td>
<td>19</td>
<td>50</td>
<td>79%</td>
<td>72%</td>
</tr>
<tr>
<td>Units meeting staffing requirements</td>
<td>14</td>
<td>4</td>
<td>8</td>
<td>26</td>
<td>52%</td>
<td>20%</td>
</tr>
<tr>
<td>Systematised audit posts</td>
<td>48</td>
<td>71</td>
<td>42</td>
<td>161</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Internal auditors employed</td>
<td>43</td>
<td>24</td>
<td>28</td>
<td>95</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Notes: 1. For the FBiH, five units had no staff so were excluded here.

Sources: Ministry of Finance and Treasury at the State level, the Ministry of Finance of the Federation of Bosnia and Herzegovina, the Ministry of Finance of the Republika Srpska.

The CHU reports each year are mainly based on the self-assessed annual reports which the CHUs receive from the IA units. Across the BiH as a whole, 79% of the central-government sector organisations required to establish IA functions have now done so, which is a small improvement on 2017. Staffing levels have improved, with 52% now meeting the minimum requirement, in comparison with 20% in 2017. Despite the progress, this shows that, while the framework for IA remains largely complete, IA units have still not been established in all institutions required to have them and, even where they have been established, 48% do not meet the staffing levels required. Overall, just 26 of the 63 institutions (41%) required to set up IA units have done so and recruited staff to at least the minimum required level. Staffing levels are particularly weak in the FBiH, where 24 of the 71 posts (28%) were filled in 2020.

Both the FBiH and the RS still have single-person audit units in the central-government sector, either established with only a single post or with only a single auditor in post due to budget constraints or

\textsuperscript{259} Law on Internal Audit of the Institutions in BiH, Article 21; FBiH Law on Internal Audit in the Public Sector, Article 20; RS Law on the Internal Control System in the Public Sector, Article 35; and, ISPPIA Standard 1313 – External Assessments.

\textsuperscript{260} Ministry of Finance of the Federation of Bosnia and Herzegovina CHU.

\textsuperscript{261} Round table on “Development of quality control methodology (quality review) for Internal Auditors” with representatives of the CHUs held 26-27 February 2020.
recruitment issues. This means that the IA units have no internal monitoring and review capability and thus are unable to comply with the approved methodology and the IPPF standards.

In the FBiH and the RS, there are many other agencies, cantons, municipalities and SOEs that are required to have their own IA arrangements. While there are also significant numbers of single-person units at these levels, overall staffing levels are better than in the central-government sector. For the FBiH, among these institutions there is a requirement for 223 IA staff with 119 posts filled (53%). For the RS, there is a requirement for 145 IA staff with 115 posts filled (79%).

The CHUs at the State level\(^{262}\) and in the FBiH and the RS have implemented rulebooks controlling the process for training, testing and certification of candidates to be employed as internal auditors. In 2020, each of the CHUs had two cycles of training and, by year end, the State had issued certificates to 39 internal auditors in total. The FBiH issued certificates to 30 new internal auditors in 2020 and the RS to 60. By the end of 2020, the FBiH had 438 internal auditors with certificates, and the RS had 260, far more than the number of IA staff currently employed.

**Conclusion**

The legal framework for IA is largely complete. Continuous professional development is now in place at the State level and in the RS, and quality assurance is planned to be introduced in 2021. The establishment of IA in institutions at the central-government level has improved, but it is still far from complete. A number of single-person IA units are operating, which are unable to effectively apply the specified methodologies and meet international standards.

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\(^{262}\) Programme of Training and Certification of Internal Auditors in BiH Institutions, Official Gazette, Nos.7/15 and 89/18.
Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.

Overall, the value for the indicator ‘Functioning of internal audit’ is 2.

<table>
<thead>
<tr>
<th>Indicator 6.9.1 - Functioning of internal audit</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>FBiH</td>
<td>RS</td>
<td>BD</td>
<td>Bosnia and Herzegovina</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Strength of planning of internal audit in budget organisations</td>
<td>2</td>
</tr>
<tr>
<td>2. Quality of audit reports</td>
<td>0</td>
</tr>
<tr>
<td>3. Follow-up and implementation of audit recommendations (%)</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong>263</td>
<td><strong>7/16</strong></td>
</tr>
</tbody>
</table>

*Average of the State level, FBiH and RS.

The BD is only in the initial stages of setting up IA, with staff still to be recruited, so none of the elements required for Principle are yet in place.

The requirements for IA are set out in the IA manuals and other guidance materials prepared at the State level, the FBiH and the RS. These prescribe the approach for each stage of internal audit work from establishing the IA unit, through planning to carrying out assignments and reporting. While not identical, the sets of guidance are generally consistent with each other, as they follow IPPF standards and have been prepared with support from a series of Technical Assistance projects264.

Part of the process for establishing an IA unit in an institution is the approval of an audit charter which enforces legal requirements at a local level for a range of issues including independence, access to information and reporting. The CHUs at the State level and in the FBiH and the RS keep registers of the charters that have been approved. For units that have been established, there is a high level of compliance with this requirement. At the State level, 100% of the institutions have charters in place, as do 89% of the institutions in the FBiH and 82% in the RS265. These findings were supported by the sample institutions reviewed.

IA manuals require strategic and annual plans to be developed each year and provide templates. To meet the IPPF standards, strategic plans should include a risk assessment and demonstrate how IA resources are used to cover a range of high-risk areas over a three-year period. The separate annual plans should be developed from, and be consistent with, the relevant strategic plan but show more detail about the planned audit coverage and the resources to be deployed.

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


265 Based on data from Ministry of Finance and Treasury of the State of Bosnia and Herzegovina, Ministry of Finance of the Federation of Bosnia and Herzegovina, and Ministry of Finance of the Republika Srpska.
### Table 3. Strategic and annual plans on internal audit

<table>
<thead>
<tr>
<th></th>
<th>Institutions</th>
<th>Strategic plans</th>
<th>Percentage</th>
<th>Annual plans</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>State level</td>
<td>40</td>
<td>39</td>
<td>98%</td>
<td>39</td>
<td>98%</td>
</tr>
<tr>
<td>FBiH</td>
<td>78</td>
<td>71</td>
<td>91%</td>
<td>74</td>
<td>95%</td>
</tr>
<tr>
<td>RS</td>
<td>72</td>
<td>56</td>
<td>77%</td>
<td>61</td>
<td>85%</td>
</tr>
<tr>
<td>Total</td>
<td>190</td>
<td>166</td>
<td>87%</td>
<td>174</td>
<td>92%</td>
</tr>
</tbody>
</table>

Sources: Ministry of Finance and Treasury of Bosnia and Herzegovina, Ministry of Finance of the Federation of Bosnia and Herzegovina, and Ministry of Finance of the Republika Srpska and based on data from all units required to report to the CHU.

The CHU 2020 annual reports show that progress has been made with audit planning, as 87% of institutions now meet the requirements for preparation of strategic audit plans (compared to 70% in 2017) and 92% for annual audit plans (compared to 54% in 2017). However, review of a sample of strategic and annual audit plans\(^{266}\) indicated that there were some gaps in the information provided, particularly related to risk analysis\(^{267}\). Nearly all of the strategic plans reviewed met the requirements in terms of setting out the role and objectives of IA together with coverage over a three-year period. An analysis of the annual plans showed a focus on systems and compliance, but the plans did not generally include performance audit and audits of activities related to a variety of funding sources.

One matter that was apparent from the strategic plans of the central IA units based in the ministries of finance of the FBiH and the RS is the range of coverage they are required to provide with limited resources. Regulations require these units to provide IA services to those organisations that fail to meet the criteria for establishing their own units or have yet to establish them. The FBiH unit covers 30 separate institutions with a systematisation of four staff but only three in post. By comparison, the State-level unit covers five institutions with a systematisation of four staff\(^{268}\).

The established methodology requires a report to be issued at the conclusion of each audit assignment. A sample of reports\(^{269}\) was requested from institutions, although some were not provided\(^{270}\). All those received defined the objective and scope of the assignment undertaken, addressed systematic weaknesses in internal control and included recommendations for improvement where appropriate\(^{271}\). Only a few of the reports addressed weaknesses in achieving value for money. The reports submitted compared well with the relevant criteria, but the missing reports had an impact on the sub-indicator values.

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\(^{266}\) Sample of 15 institutions, but only 14 reports were received. The BiH Ministry of Justice declined to provide audit plans on the grounds of confidentiality.

\(^{267}\) Of the 14 strategic plans provided, 8 contained sufficient evidence that they were based on an assessment of risks to the achievement of institutional objectives. Two documents provided were frameworks for risk assessment, and no documents were submitted for four institutions.

\(^{268}\) The RS central IA unit has a systematisation of three staff with only one in post, but information was not provided on the number of separate institutions they are required to cover.

\(^{269}\) The request was for the last IA assignment report issued during 2020.

\(^{270}\) The BiH Ministry of Justice declined to provide an assignment report on the grounds of confidentiality. The BiH Ministry of Foreign Affairs had only appointed the HIA in 2020, and no reports were issued that year. The FBiH Ministry of Education’s IA is undertaken by the MoF Central Unit, and no work was planned for 2020. The FBiH Ministry of Transport and Communications did not provide an assignment report.

\(^{271}\) One report found that the system was sound and no further recommendations were needed.
An action plan for implementation of recommendations is a requirement for all reports, with deadlines agreed with management. Follow-up action is required from IA units in the next year, and it was indicated that this is done by follow-up audit, email or phone call depending on the recommendation.

Table 4. Implementation of IA recommendations

<table>
<thead>
<tr>
<th></th>
<th>State level</th>
<th>FBiH</th>
<th>RS</th>
<th>Total</th>
<th>Percentage 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issued 2019</td>
<td>308</td>
<td>1 595</td>
<td>1 384</td>
<td>3 277</td>
<td>-</td>
</tr>
<tr>
<td>Implemented 2020</td>
<td>173</td>
<td>587</td>
<td>684</td>
<td>1 444</td>
<td>-</td>
</tr>
<tr>
<td>Percentage</td>
<td>56%</td>
<td>37%</td>
<td>49%</td>
<td>44%</td>
<td>Below 50%\textsuperscript{272}</td>
</tr>
</tbody>
</table>

Sources: Ministry of Finance and Treasury of Bosnia and Herzegovina, Ministry of Finance of the Federation of Bosnia and Herzegovina, and Ministry of Finance of the Republika Srpska and based on data from all units required to report to the CHU.

The CHU Annual Reports show how many recommendations are made each year and how many are implemented, with year-on-year comparisons. The overall number of recommendations (3 277) has increased since the 2017 assessment (2 625), but there is no apparent increase in the rate of implementation. The CHU reports do not include specific information on the speed or frequency of follow-up action by IA units.

Conclusion

IA units are generally preparing strategic and annual audit plans that are in line with national legal requirements and based on a risk assessment. Audit reports are broadly prepared in line with the IA manuals, but there is still limited focus on value-for-money issues. Also, the implementation rate of IA recommendations remains low, limiting the impact of IA.

\textsuperscript{272} For the 2017 assessment, the annual report of the RS CHU did not include information on the implementation rate of recommendations, so an overall estimate was made on the basis of the annual reports of the State and the FBiH.
Public procurement

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.

Overall, the value for the indicator ‘Quality of legislative framework for public procurement and PPPs/concessions’ is 3. The value has not changed since the last assessment in 2017.

### Indicator 6.10.1 - Quality of legislative framework for public procurement and PPPs/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 small and medium-sized enterprises (SMEs) in public procurement are assessed, as well as whether practical measures are taken to allow 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.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>Points 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

#### Compliance of public procurement legislation with the acquis above EU thresholds

1. Level of alignment of public procurement legislation with the EU Directives | 3/6 |
2. Scope of public procurement legislation | 3/6 |
3. Public procurement procedures | 1/4 |
4. Publication and transparency | 5/5 |
5. Choice of participants and award of contracts | 2/5 |
6. Availability of procedural options | 3/4 |

#### Public procurement procedures below EU thresholds

7. Advertising of public procurement procedures | 3/3 |
8. Contract award procedures | 5/7 |

#### Opportunities for participation of SMEs in public procurement

9. Opportunities for participation of SMEs in public procurement | 2/5 |

#### Availability of measures for the practical application of the legislative framework

10. Availability of measures for the practical application of the legislative framework | 1/5 |

#### Quality of legislation concerning PPPs/concessions

11. Coverage of legislation on PPPs/concessions | Not assessed |
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions | Not assessed |

**Total** | 28/50 |

Note: The 2021 assessment does not include sub-indicators 11 and 12 and criteria in other sub-indicators relating to public-private partnerships (PPPs) and concessions. These will be finalised in 2022. For the purposes of the 2021 reports, an interim point conversion range has been established to calculate the overall indicator value that removes the points relating to PPPs/concessions from the total and redistributes the point conversion ranges proportionally. The total amount of points is therefore 50 instead of 60.

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273 Point conversion ranges: 0-8=0, 9-17=1, 18-26=2, 27-34=3, 35-42=4, 43-50=5.
The PPL\textsuperscript{274} has remained unchanged. While the adoption of the PPL in 2014 represented an important step forward on the path of approximation of the legislation of BiH with the EU \textit{acquis}, the process of further alignment, namely with the 2014 Directives\textsuperscript{275}, has not yet begun. The Strategy and Action Plan for the development of the public procurement system in BiH for the period 2016-2020 had foreseen a gradual harmonisation with the new EU Directives. However, the adoption of the scheduled measures did not take place.

The current PPL is already largely aligned with the basic public procurement principles and objectives of the European Union. It reflects some of the key elements of the 2014 EU Public Procurement Directives, for instance with regard to their personal scope, the main characteristics of available public procurement procedures and the fundamental principles underlying the selection and award criteria. The PPL covers the classic and utilities sectors and regulates the award of contracts both above and below the EU thresholds. The PPL also incorporates the relevant provisions of the EU review and remedies regimes. The relevant by-laws in support of the PPL have been completed, including adoption of the delayed Rulebook on Training of Public Procurement Officers\textsuperscript{276}.

However, a number of problematic provisions of the PPL need to be addressed.

First, the mandatory application of domestic preferences remains incompatible with the \textit{acquis}\textsuperscript{277}. The application of domestic preferences was supposed to be phased out on 1 June 2020, but in response to the COVID-19 pandemic the CoM of BiH decided to temporarily extend preferential domestic treatment of 30% until 1 June 2021\textsuperscript{278}. Preferential treatment is not applied for tenders submitted by bidders from Central European Free Trade Agreement countries, while there is no such exemption for economic operators from the EU\textsuperscript{279}. The application of domestic preferences is not in line with the fundamental principle of equal treatment, and it leads to discrimination against EU companies in BiH.

Second, with regard to the material scope of the 2014 Directives, particular attention should be paid to the exemptions from the scope of the PPL. Contracts which are exempted include contracts “for natural and legal monopolies that may include procurement of water, electricity, gas, heating and other services, until the relevant market is open for competition”\textsuperscript{280}. Undoubtedly, it would be impractical to require the application of competitive procedures in these situations (when for technical reasons there is only one economic operator capable of fulfilling a particular contract). However, the EU legislation, instead of exempting such contracts, offers another solution, application of the negotiated procedure without prior publication.

The 2014 EU Public Procurement Directives provide for a number of new procurement techniques, procedures and concepts (such as innovation partnership, electronic catalogues, best price-quality ratio and life-cycle costing), which are currently not transposed into the PPL.


\textsuperscript{276} Rulebook on training of public procurement officers, Official Gazette of BiH No. 8/2018 of 10 February 2018.

\textsuperscript{277} PPL, Article 67, Decision on Obligatory Application of Domestic Preferences of 11 November 2016, Official Gazette of BiH No. 83/2016 and Decision on amendments to the Decision on Obligatory Application of Domestic Preferences of 10 June 2019, Official Gazette of BiH No. 54/2019.

\textsuperscript{278} Decision on Obligatory Application of Domestic Preferences of 29 May 2020, Official Gazette of BiH No. 34/2020.

\textsuperscript{279} Ibid, Article 2.

\textsuperscript{280} PPL, Article 10.
Moreover, the grounds for exclusion of economic operators from public procurement procedures are not fully aligned with the 2014 Directives, and there is no right to demonstrate “self-cleaning” prior to their exclusion.

In addition, the new EU Directives are intended to make it easier for small and medium-sized enterprises (SMEs) to participate in public tenders, for example by requiring contracting authorities to provide justification for a decision not to divide contracts into lots or by rendering division into lots obligatory under certain conditions. No such focus on SMEs is present in the PPL.

The PPL places insufficient emphasis on the promotion of social, environmental and innovation/sustainability considerations. The contracting authorities do not have the opportunity to use a light regime for social and other specific services in accordance with Directives.

Communication and exchange of information are not fully conducted by electronic means, which is a standard under the 2014 EU Directives. The PPL does not foresee electronic submission of requests to participate and tenders, which are still handled in the traditional paper manner.

Finally, the PPL lacks clear conditions under which modifications to a contract during its performance require a new procurement procedure and under which modifications are permitted without the need to carry out a new procurement procedure.

The provisions of the EU Defence Procurement Directive are only partially transposed in the secondary legislation. The scope of application of the Rulebook is not fully aligned with the Directive: the rules on security of supply and security of information and specific rules on subcontracting are not transposed.

On 18 February 2021, the CoM adopted the Proposal on the Law on Amendments to the Public Procurement Law and submitted it to the parliamentary procedure. The draft Law on Amendments to the PPL was prepared by the Working Group established in 2017 by the CoM. The proposal provides improvements with regard to transparency in various phases of the procurement process, introduces more strict provisions on conflict of interest and removes the exclusion for natural and legal monopolies. As regards further harmonisation with the 2014 EU Public Procurement Directives, new provisions have been introduced in the draft, for example concerning labels, life-cycle, preliminary market consultations and indication of the main reasons when a contract is not subdivided into lots.

Conclusion

The current legal framework for public procurement remains unchanged and is largely aligned with the basic EU principles, but it requires further alignment with the 2014 Directives. Secondary legislation is in place. The CoM adopted the new Decision on preferential domestic treatment of 30% that was valid until 1 June 2021, which contravenes the fundamental principle of non-discrimination. The proposal for Amendments to the Public Procurement Law is in parliamentary procedure.

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281 Rulebook on contract award procedure in the field of defence and security of 17 June 2015, Official Gazette of BiH No. 60/2015.


283 https://www.parlament.ba/session/OSessionDetails?id=2224&ConvernerId=2.
**Principle 11:** There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

Overall, the value for the indicator ‘Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently’ is 3. The value has not changed since the last assessment in 2017.

### Indicator 6.11.1 - 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 is open and transparent.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

#### Quality of the policy framework for public procurement

1. Quality of the strategy for development of public procurement and PPPs/concessions: 0/5
2. Quality of the operational action plan: 0/5
3. Implementation of the strategy and the action plan (%): 0/5
4. Monitoring of strategy implementation: 0/5

#### 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: 10/20

#### Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement

8. Presence and quality of monitoring and data collection: 8/10
9. Accessibility of public procurement data: 6/10

**Total**

284 40/69

Note: The 2021 assessment does not include criteria relating to PPPs and concessions. These will be finalised in 2022. For the purposes of the 2021 reports, an interim point conversion range has been established to calculate the overall indicator value that removes the points relating to PPPs/concessions from the total and redistributes the point conversion ranges proportionally. The total amount of points is therefore 69 instead of 80.

The PPA is an independent administrative body responsible for policy making, preparing draft legislation, monitoring, advising, training activities in the field of public procurement and managing and developing the Public Procurement Portal. The PPA’s main office is in Sarajevo, with branch offices in Banja Luka and Mostar. The PPA is managed by the director, and its work is steered by the Board of five members. In accordance with the PPL, the Board is competent to consider issues related to the functioning and improvement of the public procurement system. In practice, the Board limits itself to administering prior consents to enactments prepared by the PPA.

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284 Point conversion ranges: 0-10=0, 11-21=1, 22-33=2, 34-45=3, 46-57=4, 58-69=5.
285 Interview with the Board, April 2021.
At the time of this assessment, the PPA employed 22 staff members, rather than the planned complement of 32. The draft new Rulebook on Internal Systematisation prepared by the PPA envisages 45 employees. Understaffing is a source of serious concern, given the volume, variety and importance of the functions the PPA is called upon to undertake under the provisions of the PPL. Its staff capacity needs to be reinforced to enable it to deal with all assigned tasks effectively and efficiently.

The PPA carries out monitoring of public procurement procedures. The monitoring proceedings may be initiated ex officio and on the request of an exhaustive list of authorised institutions or interested parties, but not anonymously. Ex officio monitoring is limited to checking compliance of published procurement notices, contract award notices or notices of cancellation of public procurement. If, upon assessment, the PPA comes to the conclusion that a violation of the PPL has occurred, and if the contracting authority fails to rectify its behaviour accordingly, the PPA is obliged to bring an action before the courts of BiH. In 2020, the PPA processed 521 cases of monitoring (out of which 71 requests were submitted by NGOs) and checked compliance of some 30,000 procurement notices, procurement plans and other sources of monitoring. The PPA initiated 27 misdemeanour procedures before the competent courts of BiH, while 11 cases were forwarded to the competent public prosecutor’s offices. Given the number of requests and sources of monitoring, as well as the fact that only five employees are assigned to this task, the PPA is under severe pressure to properly conduct its monitoring function.

Another source of concern regarding the activities of the PPA is advisory and operational support for contracting authorities and economic operators. The PPA does offer a range of professional advice and support activities to all interested parties, such as ad hoc advice on legal as well as technical issues (through a hotline and in writing). During 2020, the PPA received 2,354 questions through a hotline and 7,507 in writing. Since June 2020, however, the provision of advisory support by the PPA through the hotline has been reduced to only one day per week for three hours and of technical support to twice a week for two hours. The PPA is regarded as very responsive and co-operative, but stakeholders note a lack of consistency in interpretation of procurement legislation between key institutions, particularly between the PPA and PRB. Among the main strategic objectives, the previous Strategy highlighted better co-ordination within the public procurement system. However a mechanism to regularly and systematically co-ordinate interpretation of public procurement legislation between the key institutions involved has not been put in place.

The PPA has not made available any manuals, guidelines or other practical tools for implementation of the PPL, with the exception of the manual for the use of the e-Procurement information system.

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286 Data submitted by the PPA in March 2021
287 The Rulebook in Internal Systematisation of the Public Procurement Agency of 24 April 2008, with later amendments (of 11 February 2010, 17 August 2015, 26 September 2018).
288 Data received from the PPA.
290 PPL, Article 116.
292 Ibid.
295 SIGMA interviews, April 2021.
297 Available at: https://www.ejn.gov.ba/content/manual/Pomoc%20e-Nabavke_bs.pdf
Moreover, the collection of the PPA’s opinions and solutions to the most common practical problems faced by practitioners is not regularly updated\(^{298}\).

The training and examination of public procurement staff within the contracting authorities, which had previously come to a halt, intensified as of 2019 and continued in 2020, following the delayed adoption of the Rulebook on training of public procurement officers\(^{299}\). This enabled the PPA to provide regular and systematic professional support to contracting authorities, which it is mandated to provide under the PPL. The 30-hour training sessions are organised with the support of the Instrument for Pre-accession Assistance (IPA) II Project, Strengthening the Public Procurement system in BiH. In November 2019, the PPA launched an information system for the management of training in the field of public procurement (TMIS)\(^{300}\).

The Public Procurement Strategy\(^{301}\), adopted by the CoM on 13 October 2016, expired in 2020. The Strategy, together with Action Plan for 2016-2017, provided an outline for the development, implementation and monitoring of procurement policy. The implementation of the Strategy has not been successful. Since 2017, no annual action plans have been adopted, and there have been no reports on the implementation of the Strategy. Very few activities have actually been implemented. The only two activities that were implemented in accordance with planned deadlines were the e-auction module and the publication of the PRB’s decisions on the Public Procurement Portal. Some other activities were implemented, but later than planned. The PPA announced\(^{302}\) that it has initiated activities on preparation of the Strategy for 2021-2025, but no new Strategy has been adopted for the period from 2021 onwards.

**Conclusion**

Understaffing of the PPA is a serious concern, particularly with regard to monitoring and advisory and operations support functions. The 2016-2020 Strategy has expired, with very few activities implemented and no new Strategy prepared. The PPA has been inactive in the preparation of manuals and guidelines. Mechanisms to regularly and systematically co-ordinate the interpretation of public procurement legislation between the key institutions are not in place. The adoption of the Rulebook on Training\(^{303}\) was crucial to enable the PPA to start delivering training.

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\(^{298}\) Only four opinions were published in 2020, available at [https://www.javnenabavke.gov.ba/hr/practical-application](https://www.javnenabavke.gov.ba/hr/practical-application).

\(^{299}\) Rulebook on training of public procurement officers, Official Gazette of BiH No. 8/2018 of 10 February 2018.

\(^{300}\) [www.obuke.javnenabavke.gov.ba](http://www.obuke.javnenabavke.gov.ba).


\(^{302}\) The Work Programme of the Public Procurement Agency of Bosnia and Herzegovina for the period 1 January to 31 December 2021, p. 1.

\(^{303}\) Rulebook on training of public procurement officers, Official Gazette of BiH No. 8/2018 of 10 February 2018.
**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.

Overall, the value for the indicator ‘Independence, timeliness and competence of the complaints handling system’ is 3. The value has not changed since the last assessment in 2017.

**Indicator 6.12.1 - 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 EU Directives. Then, the strength of the institutional set-up for handling complaints is analysed. Next, the actual performance of the review system is measured. Finally, the performance of the remedies system for PPPs/concessions is evaluated.

<table>
<thead>
<tr>
<th>Overall 2021 indicator value</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Points 2021</strong></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Legislative 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 0/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties 3/3
4. Mechanisms to ensure implementation of the review body’s resolutions 2/2
5. Right to challenge decisions of the review body 3/3

**Institutional set-up for handling complaints**

6. Legal provisions ensure the independence of the review body and its members 7/7
7. Adequacy of the organisational set-up and procedures of the review body 2/4
8. Public availability and timeliness of data on the review system 1/4

**Performance of the review system**

9. Fairness of fee rates for initiating review procedures 0.5/3
10. Actual processing time of complaints 0/3
11. Complaint submission in practice 2/4
12. Quality of decision making by the review body 3/4
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 Not assessed
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members Not assessed
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions Not assessed

**Total**\(^{304}\) 29.5/46

Note: The 2021 assessment does not include sub-indicators 14 to 16 and criteria in other sub-indicators relating to PPPs and concessions. These will be finalised in 2022. For the purposes of the 2021 reports, an interim point conversion range has been established to calculate the overall indicator value that removes the points relating to PPPs/concessions from the total and redistributes the point conversion ranges proportionally. The total amount of points is therefore 46 instead of 61.

The regulatory and institutional framework in the system of legal review and remedies remains fundamentally unchanged since the adoption of the PPL in 2014.

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\(^{304}\) Point conversion ranges: 0-6=0, 7-14=1, 15-22=2, 23-30=3, 31-38=4, 39-46=5.
The PPL is mainly compliant with the EU Remedies Directive\textsuperscript{305}, but two issues require further alignment. First, the time limits for bringing appeals before the PRB (five days\textsuperscript{306}) are manifestly too short and do not comply with the requirements of the Remedies Directive. Second, the deadline for rectifying the deficiencies in the appeal (three days, followed by a possible dismissal of the appeal\textsuperscript{307}) also appear excessively short and might lead to the dismissal of appeals on the basis of purely formal irregularities. As a result of these requirements, prospective applicants may be discouraged from challenging the decisions of contracting authorities before the PRB.

In terms of the institutional framework, the PRB, with headquarters in Sarajevo and branch offices in Mostar and Banja Luka, acts as an independent and autonomous institution responsible for the review of appeals. This process comprises two stages, as prior to an appeal being submitted to the PRB, it is examined by the contracting authority in question\textsuperscript{308}.

The number of appeals has been increasing continuously since 2016, with the exception of 2019 when a slight decline was recorded. In 2020\textsuperscript{309}, 3,868 appeals were received, compared to 3,230 appeals in 2019\textsuperscript{310}. In 2020, the headquarters in Sarajevo received 907 appeals, the office in Banja Luka 887, and the office in Mostar 2,074\textsuperscript{311}.

**Figure 1. Number of appeals submitted to the PRB, 2016-2020**

![Graph showing the number of appeals from 2016 to 2020. The number of appeals increased from 2,684 in 2016 to 3,868 in 2020.]


The PRB’s actual staff (at both headquarters and the branch offices) is comprised of only 33 people (17 members and 16 supporting staff), rather than the 55 required by the official staff regulations\textsuperscript{312}. The

\begin{itemize}
  \item \textsuperscript{305} Council Directive 89/665/EEC of 21 December 1989 on the co-ordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.
  \item \textsuperscript{306} PPL, Article 100.
  \item \textsuperscript{307} Ibid, Article 106.
  \item \textsuperscript{308} Ibid, Part III “Legal protection”.
  \item \textsuperscript{309} Work Report of the Procurement Review Body for 2020, p. 3.
  \item \textsuperscript{310} Ibid, p. 3.
  \item \textsuperscript{311} Ibid, p. 6.
  \item \textsuperscript{312} Rulebook on Internal Organisation of the PRB, No. 01-02-3-221/13, 15 December 2015.
\end{itemize}
headquarters in Sarajevo has five support staff, the branch office in Mostar two and in Banja Luka only one. Such a significant shortage of staff is likely to have negative repercussions on the efficiency and quality of the overall functioning of the institution, especially in light of the continuously increasing flow of appeals.

There are cases where the PRB does not respect the statutory time limits for deciding on complaints, although this has improved compared to previous periods\(^3\)\(^1\)\(^3\). But the PRB does not have mechanisms in place to enable it to measure the actual time spent on resolving appeals between the lodging of an appeal to completion of documentation and reaching a decision. Moreover, in exceptionally complex cases, where prescribed time limits\(^3\)\(^4\) are exceeded, the PRB does not regularly issue and deliver to the parties in the procedure a conclusion that the time limit is extended. The reviewed samples of PRB decisions refer to applicable law and principles and generally demonstrate a clear rationale. The rationale is, however, very repetitive (for example the appeal allegations are repeated three times)\(^3\)\(^5\)\(^5\). In most cases, the decisions focus on formal errors, as do the appeal allegations. The PRB merely decides on allegations, which tend to focus on formalities. However, when the formal errors do not impact the outcome of the procedure, this is clearly stated in the decision.

In 2020, the PRB upgraded its internal information system (OWIS) which is supposed to enable co-ordination of documentation and ensure a consistent, comprehensive and standardised approach to documents at all PRB locations. Nonetheless, the inconsistency of the PRB decisions\(^3\)\(^6\) is the most frequently criticised aspect of the work of the PRB. The PRB still relies on informal mechanisms, such as e-mail exchanges of past decisions and individual members’ recollection of the body of PRB case law\(^3\)\(^7\). In order to ensure coherent output of the PRB as a whole, it is therefore vital to use the common sharing system effectively to ensure co-ordination in handling of appeals and decision-making.

After years of relying on the PPA’s website for publication of relevant information, the PRB launched its own website in 2018. In accordance with the PPL\(^3\)\(^8\), all conclusions and decisions of the PRB must be publicly disclosed on the Public Procurement Portal. However, due to the lack of technical and human resources, the PRB struggles with this task. In 2019, the PRB made 3 025 decisions (out of 3 230 appeals received)\(^3\)\(^9\), but only 1 779\(^3\)\(^2\)\(^0\) were published. In 2020, the PRB made 3 512 decisions (out of 3 868 appeals received)\(^3\)\(^2\)\(^1\), with 3 147\(^3\)\(^2\)\(^2\) published on the Portal.

The manner in which this publication is presented has one major deficiency. The system allows browsing of the PRB’s decisions using a number of criteria (such as the procedure or decision number, the contracting authority involved, the name of economic operator and the date), but it does not offer a basic text-search option that would allow prospective or actual parties to the proceedings before the PRB (or even the PRB itself) to find information on how earlier case law dealt with a specific situation or legal

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\(^{3\text{13}}\) Work Report of the Procurement Review Body for 2020, p. 6 and interviews with stakeholders in April 2021.

\(^{3\text{14}}\) PPL, Article 111.

\(^{3\text{15}}\) First, the allegations from the appeal are presented; second, the allegations are repeated when the statement of the contracting authority is presented; and third, they are repeated when the PRB elaborates its decision.

\(^{3\text{16}}\) Interviews with stakeholders in April 2021 and two PRB cases No. JN2-03-07-1-396-8/21 of 18 March 2021 and No. JN2-03-07-1-675-1/21 of 1 April 2021.

\(^{3\text{17}}\) Interview with the PRB on 22 April 2021.

\(^{3\text{18}}\) PPL, Article 113.


\(^{3\text{20}}\) https://www.ejn.gov.ba/Resolution/ResolutionSearch.


\(^{3\text{22}}\) https://www.ejn.gov.ba/Resolution/ResolutionSearch.
problem. As a result, the published information is of limited value and relevance. Ensuring wider access to the PRB’s case law through a comprehensive search engine would significantly enhance legal continuity in decision-making, legal certainty and transparency.

Decisions of the PRB may be appealed to the Court of BiH. In 2020, 343 administrative disputes were initiated against PRB decisions (9.76% of all cases in 2020). Also in 2020, the Court reached 472 decisions related to administrative disputes initiated against PRB decisions adopted in the period 2016-2020, of which in 131 cases the Court accepted the appeal and returned the case to the PRB. The Court should adopt its decisions according to the emergency procedure. However, the length of administrative disputes is excessive, from one to three years. Such long time frames for the Court to reach a final decision brings into question the practical relevance of the ruling to the procurement procedure in question and manifestly discourages parties from seeking judicial protection. The length of judicial procedures is one of the mostly criticised aspects of the public procurement system in BiH.

Conclusion

The functioning of the PRB continues to be the weak element, primarily due to its insufficient staffing and technical capacity. The number of appeal cases is increasing continuously. Inconsistency of PRB decisions remains the main issue. The PRB does not publish all its decisions, and the manner in which decisions are published does not allow efficient access to the case law. The length of administrative disputes against PRB decisions in the Court of BiH is excessive.

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323 PPL, Article 115.
325 Interviews with stakeholders in April 2021.
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.

Overall, the value for the indicator ‘Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations’ is 1. There has been a positive trend since 2017, when the overall value was 0.

<table>
<thead>
<tr>
<th>Indicator 6.13.1 - Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
<tr>
<td>Overall 2021 indicator value</td>
</tr>
<tr>
<td>Planning and preparation of the public procurement procedure</td>
</tr>
<tr>
<td>1. Due attention is given to the planning process</td>
</tr>
<tr>
<td>2. Presence and use of cost estimation methods and budgeting</td>
</tr>
<tr>
<td>3. Perceived quality of tender documentation by contracting authorities and economic operators (%)</td>
</tr>
<tr>
<td>Competitiveness and transparency of conducted procedures</td>
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<tr>
<td>4. Perceived fairness of procedures by businesses (%)</td>
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<tr>
<td>5. Contracts awarded by competitive procedures (%)</td>
</tr>
<tr>
<td>6. Contracts awarded based on acquisition price only (%)</td>
</tr>
<tr>
<td>7. Average number of tenders submitted per competitive procedure</td>
</tr>
<tr>
<td>8. Contracts awarded when one tenderer submitted a tender (%)</td>
</tr>
<tr>
<td>Use of modern procurement methods</td>
</tr>
<tr>
<td>10. Adequacy of regulatory and institutional framework and use of centralised purchasing</td>
</tr>
<tr>
<td>11. Penetration of e-procurement within the procurement system</td>
</tr>
<tr>
<td>Contract management and performance monitoring</td>
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<tr>
<td>12. Presence of mechanisms requiring and enabling contract management</td>
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<tr>
<td>13. Contracts amended after award (%)</td>
</tr>
<tr>
<td>14. Use of ex post evaluation of the procurement process and of contract performance</td>
</tr>
<tr>
<td>Risk management for preserving the integrity of the public procurement system</td>
</tr>
<tr>
<td>15. Existence of basic integrity tools</td>
</tr>
<tr>
<td>Total</td>
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</table>

The PPL foresees publication of procurement plans on the contracting authority’s website. In 2018, the Public Procurement Portal was upgraded, enabling publication of procurement plans. However, the contracting authorities are still required to publish procurement plans on their websites, and the new option is not widely used. Monitoring activities, carried out by the PPA as well as the State Audit Institution (SAI), detected a recurring problem of late adoption of procurement plans due to late adoption of

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326 Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 35-45=3, 46-56=4, 57-65=5.
327 PPL, Article 17.
budgets/financial plans and, as a consequence, late realisation of procurement procedures. This diminishes the efficiency of the planning process and undermines the efficient use of public funds.

Contract management is still considered a weak segment of the procurement process. There is no evidence of systematic ex post evaluation of the procurement process, proactive contract management, evaluation of concluded contracts or a common, standard approach to reviewing and learning from problems that arise during contract execution. Contracting authorities’ only obligation is to report on the procedure to the PPA. The only relevant piece of implementing regulation concerns the publication of contract modifications on the contracting authority’s website. Substantive aspects of the contract implementation procedure are not addressed, and no guidelines are issued on this matter. Moreover, the PPA does not hold any data on the number and value of contracts modified after award.

Shifting the publication of procurement plans and contract modifications from the individual websites of contracting authorities to the Public Procurement Portal could fill these gaps and greatly increase the transparency of procurement planning and contract implementation. The new Proposal for the Amendments to the PPL is supposed to remedy these issues by introducing mandatory publication of procurement plans and contract modifications on the Portal and a concept of temporary plans during the temporary financing period.

Concerning the preparatory phase of procurement, no guidelines are issued on the subject of preliminary market analysis or consultations to enable contracting authorities to better define their needs. The absence of market analysis prior to initiation of procedure is confirmed by SAI’s findings.

While the use of centralised procurement is covered by the legislation currently in force, in practice very little such centralised purchasing is taking place. The PPA does not maintain detailed information related to central purchasing bodies and their activities. Upgrades of the Portal with regard to centralised purchasing operations are planned.

Of the contracts awarded in 2020, more than 92% were awarded through competitive procedures.

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329 PPL, Article 75.
330 Instructions on the Publication of Basic Contract Elements and the Contract Modification, Official Gazette of BiH No. 56/2015, August 2015.
333 Information from the PPA, July 2021.
335 Data received from the PPA.
However, the use of acquisition price as the only award criteria remains high (86%), to the detriment of quality.

The average number of tenders submitted per competitive procedure is only 2.05, a decrease from 2019 when it was 2.16.

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Data received from the PPA. 

Annual report on contracts awarded in public procurement procedures in 2020, p. 53. 

Annual report on contracts awarded in public procurement procedures in 2019, p. 56.
In 71% of the cases, only one tender was received, which is higher than in 2019.

There is a continued positive trend in the PPA’s management and development of the centralised Public Procurement Portal, which is a very strong element of the system. The PPA’s efforts in maintaining and upgrading the Portal are beneficial for the overall transparency of public procurement operations and wider...

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Data received from the PPA in June 2021.

https://www.ejn.gov.ba/.
availability of information. The system allows free access to all published notices, and no registration is required for browsing which can be done using many search criteria.\textsuperscript{341} In 2018, the upload of tender documents on the Portal became mandatory for all procedures in which a contract notice is published.\textsuperscript{342} Although this is a much welcomed improvement, it was not preceded by adequate changes of the PPL\textsuperscript{343} which, as written, equally allows other methods for obtaining tender documents.

Full e-communication, including e-submission of tenders and requests to participate, has not yet been introduced.

Use of the e-auction module has gradually increased since it was introduced in 2016. As of 2020, e-auction become mandatory in all applicable procurement procedures\textsuperscript{344} where the chosen award criteria is the lowest price. In 2020, e-auction was used in almost 83\%\textsuperscript{345} of all procedures. Mandatory use of e-auction revealed some weaknesses to be considered in evaluating the effects of the dominant use of this method. Frequently, winners of the e-auction offering very low prices withdraw from further proceedings without any consequences, which forces contracting authorities to award the contract to the second-ranked tenderer at a higher price.\textsuperscript{346} This calls into question the integrity of the procedure. Moreover, mandatory use of e-auctions in combination with prevalent use of the lowest price is unlikely to ensure the most efficient spending of public funds, as required under the PPL.\textsuperscript{347}

Stakeholders report that implementation of the PPL is very formalistic and fails to achieve some of its main objectives.\textsuperscript{348,349} For example, the PPL introduced mandatory self-declaration\textsuperscript{350} by economic operators to replace documentary evidence as the condition for participation in procurement procedures, but this in effect imposes greater burden and costs to participants. First, self-declaration must be certified by the competent authority\textsuperscript{351} (municipality or public notary). Second, when contracts are awarded, contracting authorities can accept only originals or certified copies of documentary evidence dated no more than three months before the date of submission of the tender.\textsuperscript{352} The effect of this is that, along with their tenders,

\textsuperscript{341} Search criteria include: notice number; title of procurement; name of contracting authority/entity; type of contracting authority/entity; level of contracting authority/entity; city/municipality of contracting authority/entity; ID of contracting authority/entity; CPV; notice type; contract type; procedure type; contract award criteria; time period; and status of the procedure.

\textsuperscript{342} Instructions on conditions and method of publishing notices and submitting reports in public procurement procedures under the e-procurement information system “e-Nabavke”, Official Gazette of BiH No. 90/2014 of 11 November 2014, with later amendments from 2015, Article 9.

\textsuperscript{343} PPL, Article 55.

\textsuperscript{344} Open procedure, restricted procedure, negotiated procedure with publication of contract notice and competitive request.

\textsuperscript{345} Data received from the PPA.

\textsuperscript{346} Interviews with stakeholders in April 2021.

\textsuperscript{347} PPL, Article 3.

\textsuperscript{348} Interviews with stakeholders in April 2021.

\textsuperscript{349} A different opinion can be deduced from the Balkan Business Opinion Barometer, conducted February-March 2021, question 6.13.1.3: 68 out of the 200 companies in the sample had decided not to take part in a public tender or procurement procedure. Of the 200, only 4 provided the reason that “The procedure seemed too bureaucratic or burdensome” (2%).

\textsuperscript{350} PPL, Article 45.

\textsuperscript{351} Ibid, Article 45.

\textsuperscript{352} Ibid, Article 73.
many economic operators\textsuperscript{353} submit documentary evidence and self-declaration (which is obligatory in any case), completely devaluing the concept of self-declarations. Moreover, economic operators are forced to regularly obtain up-to-date original documents from institutions and have the copies certified in order to have them readily available in case they are called upon to deliver them to contracting authorities.

No changes to the PPL were introduced related to the COVID-19 pandemic. All tools and procedures for emergency procedures were readily available in the PPL. The PPA issued instructions\textsuperscript{354} to contracting authorities in a timely manner related to the possibility of using negotiated procedures without prior notice, based on grounds of urgency, as well as exemption from the scope of the PPL for contracts which required special security measures. As a temporary measure to mitigate the consequences of the COVID-19 pandemic, the CoM adopted the new Decision\textsuperscript{355} on preferential domestic treatment of 30% that was valid until 1 June 2021.

No restrictions on carrying out procurement procedures were imposed. The level of procurement activities appears to have decreased only slightly during the pandemic (Bosnian Mark [BAM] 2 771 billion in 2020 compared to BAM 2 844 in 2019).

During 2020, the PPA focused its monitoring activities on detecting and eliminating breaches of the PPL during the COVID-19 pandemic. In particular, it monitored health and medical institutions at all levels of government. The PPA processed a number of cases\textsuperscript{356} and detected misuse of exceptional procedures for procurements which could not in any way be related to the pandemic (for both negotiated procedures on grounds of urgency\textsuperscript{357} and security-measures exemptions). The PPA forwarded 11 cases to competent public prosecutors’ offices.

The media proactively covered procurement cases during the COVID-19 pandemic. The most prominent of these was the case related to an allegedly suspect direct purchase of 100 defective ventilators from China for EUR 5.3 million from a company dealing with agricultural production, which resulted in the arrest of the Prime Minister of the FBiH\textsuperscript{358}.

Other irregularities identified by the PPA\textsuperscript{359} concern late adoption of procurement plans, dividing the subject matter of procurement to circumvent the PPL or applicable procedures, discriminatory qualification criteria and criteria favouring certain products. The latter was confirmed by 20\% of companies participating in the Balkan Barometer Survey\textsuperscript{360}. The PPA also notes\textsuperscript{361} some persistent weaknesses, such as appointment of members of public procurement commissions purely to satisfy formal requirements with no regard to the substantive needs of the procurement in question, absence of internal monitoring and lack of expert knowledge in definition of technical specifications which should enable equal treatment of all potential tenderers.

\textsuperscript{353} Interviews with stakeholders in April 2021.
\textsuperscript{355} Decision on Obligatory Application of Domestic Preferences, Official Gazette of BiH No. 34/2020 of 29 May 2020.
\textsuperscript{357} In 2020, 800 contracts were awarded through negotiated procedure without publication on grounds of urgency (PPL, Article 21, paragraph 1, point d), which is a 318\% increase compared to 276 contracts in 2019. Draft Report on Monitoring of Public Procurement Procedures in 2020, p. 11.
\textsuperscript{358} https://www.aa.com.tr/balkan/ro%C4%8D%C5%A1te-u-sudu-bih-optu%C5%BEeni-u-predmetu-respiratori-negirali-krivicu/2127065.
\textsuperscript{359} Draft Report on Monitoring of Public Procurement Procedures in 2020, p. 5.
\textsuperscript{360} Balkan Business Opinion Barometer, conducted February-March 2021. Question 6.13.1.3: 68 out of the 200 companies in the sample had decided not to take part in a public tender or procurement procedure. Of the 200, 39 provided the reason that “The criteria seemed to be tailor-made for certain participants” (20\%).
\textsuperscript{361} Draft Report on Monitoring of Public Procurement Procedures in 2020, p. 5.
The SAI’s findings concern irregularities in the choice of the procurement procedure or acquisitions without prescribed procedures and also emphasise certain non-transparent and discriminatory practices, such as continued co-operation with former suppliers after the contracts have expired or provisions of concluded contracts that are not compliant with tender documents. Problems in contract execution were also detected, such as execution period overruns and calculation of contract penalties.

**Conclusion**

The use of acquisition price as the only award criteria remains high, while the average number of tenders decreased. The mandatory use of e-auction reveals weaknesses and should be reassessed. Self-declaration of economic operators in practice burdens participants. The central Public Procurement Portal managed by the PPA is a strong element of the system. During 2020, the PPA processed a number of cases of misuse of exceptional procedures related to COVID-19.

**Principle 14:** Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

Overall, the value for the indicator ‘Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations’ is 2. The value has not changed since the last assessment in 2017.

**Indicator 6.14.1 - 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 2021 indicator value**

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**Availability and quality of manuals, guidelines, standard tender documents and other operational tools**

1. Availability and quality of manuals and guidelines 0/5
2. Availability and quality of standard tender documents, standard forms and standard contract models 2/5

**Availability and quality of training and advisory support**

3. Access to quality training for procurement staff 2/5
4. Availability of advice and support for contracting authorities and economic operators 2/5

**Procurement procedures cancelled**

5. Procurement procedures cancelled (%) 3/5

**Total**

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363 Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-25=5.
The system of training for public procurement officers envisaged by the PPL has been implemented, following the delayed adoption of the Rulebook on Training of Public Procurement Officers. As a result, the training intensified as of 2019 and continued in 2020.

Contracting authorities with budgets exceeding BAM 5 million may nominate two candidates for training, while contracting authorities with budgets below this threshold may nominate one candidate. The training of 30-hours duration is organised within one working week and follows the programme prescribed by the Rulebook. After the training is completed, the PPA organises examinations which are carried out electronically. A person attending at least 75% of the envisaged training is eligible to take the exam. It consists of 50 questions worth two points each, and candidates must achieve at least 70% in order to successfully finalise the training.

To support the organisation and management of training activities, in November 2019, the PPA launched its information system for training in the field of public procurement (TMIS). On TMIS, users can: 1) view the calendar of training sessions, as well as news and notices; 2) manage the application for training; download/upload training materials; 3) fill in evaluation forms after the training; participate in surveys; 4) download the training certificate; and 5) view statistical data on completed training.

In 2020, the training sessions continued to be organised with the support of the IPA II Project, Strengthening the Public Procurement System in BiH. In total, 35 training sessions were organised, of which 14 were held on site in eight cities. Due to the COVID-19 pandemic, the PPA reorganised delivery of the training, and 21 training sessions were conducted through distance learning. Out of 748 participants in total, 711 participants successfully concluded the training, 487 participants took the exam and 427 passed it.

In 2020, the Civil Service Agencies of the State and the FBiH also organised some training in the field of public procurement (19 training sessions with 526 participants).

Training of economic operators relies fully on the initiative of private organisations.

The ability of the PPA to deliver training in accordance with its obligations under the PPL is a step forward in the area of public procurement training and professional support to contracting authorities in BiH. It is commonly acknowledged that there is a high demand for such training, given the fact that public procurement is an area which requires a thorough knowledge and understanding of domestic legislation, as well as EU practice and the case law of the EU Court of Justice. The training delivered by the PPA is regarded as useful (79.3% of contracting authorities scored the training as “useful” or “very useful”). However, some shortcomings persist. First, the PPA offers no systematic and coherent approach to the content of training material. It relies on training material prepared individually by certified public procurement trainers called upon to deliver the training which is not publicly available. Second, the educational level of public procurement officers is not monitored. Moreover, the PPL does not require mandatory professional training and development. Consistent with these concerns, in its monitoring

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365 Ibid, Article 5.
367 Rulebook on training of public procurement officers, Article 8.
368 www.obuke.javnenabavke.gov.ba.
369 PPA, Information on training in the field of public procurement conducted in 2020, p. 5.
371 SIGMA procurement survey of contracting authorities, conducted February-March 2021.
372 Obligations, certification and training of certified public procurement trainers are regulated by the Rulebook on the Training of Certified Trainers, Official Gazette of BiH No. 62/15 of 8 July 2015.
activities\(^{373}\), the PPA noted issues in the internal organisation of contracting authorities. For example, public procurement is still regarded as an additional job not systematised in internal regulations, particularly those of contracting authorities with small budgets, and there is a lack of regulations defining internal procedures within contracting authorities.

The PPA has also been inactive in the preparation of manuals, guidelines and other accompanying materials for professional development in the field of public procurement required under the PPL\(^{374}\), with the exception of the manual for the use of the e-Procurement information system\(^{375}\). The 2021 Public Procurement Survey shows that, compared to 2017, there is a decline in satisfaction with the quality of guidelines and manuals\(^{376}\).

Models of tender documents, standard tender forms and offered price forms\(^{377}\) date from 2014 and have not been updated. They are detailed, referring to specific key types of procurement (supplies, services, works), but they do not contain practical examples. Standard tender documents (five sets for different procedures) produced by the IPA II Project have not been made publicly available. There are standard forms of notices available\(^{378}\) and built into the e-Procurement platform. Also available are the standard self-declaration forms\(^{379}\) on not falling within the scope of any of the exclusion grounds\(^{380}\), on some of the requirements of financial standing and technical and professional ability of the economic operator\(^{381}\), and on conflict of interest\(^{382}\). Based on the 2021 Public Procurement Survey, satisfaction with the standard forms available declined compared to 2017\(^{383}\).

The PPA does offer a range of professional advice and support activities to all interested parties, such as ad hoc advice on legal as well as technical issues (through a hotline and in writing), as well as a compilation of frequently asked questions and problematic issues. The provision of advisory support through the hotline has been reduced to only one day per week (Wednesday) for three hours\(^{384}\) and the compilation of problematic issues is not regularly updated\(^{385}\). The PPA is indeed regarded as very responsive by contracting authorities, although according to the 2021 Public Procurement Survey, the

\(^{373}\) Draft Report on Monitoring of Public Procurement Procedures in 2020, p. 5.

\(^{374}\) PPL, Article 92.

\(^{375}\) Available at https://www.ejn.gov.ba/content/manual/Pomoc%20e-Nabavke_bs.pdf.

\(^{376}\) 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 6.14.1.1: 60.7% of contracting authorities and 18.2% of businesses found the guidelines "useful" or "very useful". The average is 39.5%, while in 2017 it was 50%.

\(^{377}\) Instructions for the preparation of model tender documents and tenders, Official Gazette of BiH No. 90/2014 of 3 November 2014 with later amendments from 2015, Annexes.

\(^{378}\) Prescribed by Instructions on conditions and method of publishing notices and submitting reports in public procurement procedures under the e-procurement information system “e-Nabavke”, Official Gazette of BiH No. 90/2014 of 11 November 2014, with later amendments from 2015, Article 9.

\(^{379}\) Instructions for the preparation of model tender documents and tenders, Official Gazette of BiH No. 90/2014 of 3 November 2014 with later amendments from 2015, Annexes.

\(^{380}\) PPL, Article 45.

\(^{381}\) Ibid, Articles 47, 50 and 51.

\(^{382}\) Ibid, Article 52.

\(^{383}\) 2021 SIGMA Public Procurement Survey of contracting authorities and Balkan Business Barometer, conducted February-March 2021, Question 6.14.1.2.: 78.3% of contracting authorities and 19.4% of businesses found the standard forms and/or models “useful” or “very useful”. The average is 48.9%, while in 2017 it was 66%.


\(^{385}\) Only four opinions were published in 2020, available at: https://www.javnenabavke.gov.ba/hr/practical-application.
level of satisfaction of end users has declined compared to 2017\textsuperscript{386}. However, stakeholders report that inconsistent interpretation of procurement legislation between the key institutions involved is a persisting issue\textsuperscript{387}. There is no active formal or informal mechanism in place to co-ordinate interpretation of the legislation.

**Conclusion**

The PPA implements training of public procurement officers in accordance with the Rulebook on Training, which was adopted in 2018 after a long delay. No practical guidance, manuals or other accompanying materials are available to contracting authorities and economic operators. Publication on the PPA's website of the updated collection of solutions to the most common practical problems has stagnated. The PPA provides regular, *ad hoc* advisory and technical support.

\textsuperscript{386} 2021 SIGMA Public Procurement Survey of contracting authorities and Balkan Business Barometer, conducted February-March 2021, Question 6.14.1.4: 65.9\% of contracting authorities and 14.8\% of businesses answered “Yes” that the answers provided were generally helpful. The average is 40.3\%, while in 2017 it was 57\%.

\textsuperscript{387} SIGMA interviews, April 2021.