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MONITORING REPORT **EXECUTIVE SUMMARY**

The **Principles** of **Public** **Administration**

BOSNIA AND HERZEGOVINA

**November
2021**

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The Principles of Public Administration

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Introduction

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

The *Principles of Public Administration*¹ 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”².

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.

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

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](https://ec.europa.eu/europeaid/sites/default/files/2018-05/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.

³ OECD (2019), *The Methodological Framework of the Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-May-2019.pdf>.

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

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.

Accountability

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.

Public Financial Management

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)⁵. 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.

⁵ 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.

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