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Monitoring Report:

The Principles of Public Administration

The former
YUGOSLAV REPUBLIC
of MACEDONIA

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LIST OF ABBREVIATIONS AND ACRONYMS

AA	Agency of Administration
AMS	audit management system
C&PPP Law	Law on Concessions and Public-Private Partnerships
CAF	Common Assessment Framework
CCC	Center for Civil Communications
CHU	Central Harmonisation Unit
CIT	corporate income tax
CoG	centre of government
COSO	Committee of Sponsoring Organisations
CSO	civil society organisation
EI	European integration
ENER	National Electronic Registry of Legislation
ERP	Economic Reform Programme
ESA	European System of Accounts
ESPP	Electronic System for Public Procurement
EU	European Union
FAQ	frequently asked question
FMC	financial management and control
GAWP	Government Annual Work Plan
GDP	gross domestic product
GS	General Secretariat
HR	human resources
HRM	human resource management
HRMIS	Human Resource Management Information System
IA	internal audit
ICT	information and communications technology
IDI	INTOSAI Development Initiative
IELTS	International English Language Testing System
INTOSAI	International Organisation of Supreme Audit Institutions
IPA	Instrument for Pre-accession Assistance
ISO	International Organization for Standardization
ISPPIA	International Standards for the Professional Practice of Internal Auditing

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List of Abbreviations and Acronyms

ISSAI	International Standards for Supreme Audit Institutions
IT	information technology
KOMSPI	Commission for Protection of the Right to Free Access to Public Information
LAD	Law on Administrative Disputes
LAS	Law on Administrative Servants
LAU	local administrative unit
LFAI	The Law on Free Access to Information of Public Character
LGAP	Law on General Administrative Procedures
LOOSAB	Law on the Organisation and Operation of State Administrative Bodies
LPSE	Law on Public Sector Employees
MASIT	Macedonian Chamber of Commerce for Communications and Information Technology
MISA	Ministry for Information Society and Administration
MoE	Ministry of Economy
MoF	Ministry of Finance
Moi	Ministry of Interior
MP	Member of Parliament
MTBF	medium-term budgetary framework
MTEF	medium-term economic framework
NGO	non-governmental organisation
NPAA	National Programme for Adoption of the Acquis
NUTS	Nomenclature of Territorial Units for Statistics
OECD	Organisation for Economic Co-operation and Development
OPM	Office of the Prime Minister
PAR	public administration reform
PDF	Portable Document Format
PDL	Public Debt Law
PEFA	Public Expenditure and Financial Accountability
PESR	Public Enterprise for State Roads
PFM	public financial management
PIFC	public internal financial control
PPB	Public Procurement Bureau
PPC	Public Procurement Council

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List of Abbreviations and Acronyms

PPL	Public Procurement Law
PPP	public-private partnership
PRO	Public Revenue Office
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAA	Stabilisation and Association Agreement
SAC	State Appeals Commission
SAI	Supreme Audit Institution
SAL	State Audit Law
SAO	State Audit Office
SCPC	State Commission for the Prevention of Corruption
SCS	senior civil servant
SEA	Secretariat for European Affairs
SIOFA	Secretariat for Implementation of the Ohrid Framework Agreement
SL	Secretariat for Legislation
SMEs	small and medium-sized enterprises
SNERR	Single National Electronic Register of Regulations
SOE	state-owned enterprise
SWCEI	Subcommittee for the Working Committee for European Integration
VAT	value added tax
WCAG	Web Content Accessibility Guidelines
WCEI	Working Committee for European Integration
ZELS	Association of the Units of Local Self-Government

INTRODUCTION

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

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

This 2017 Monitoring Report, for the period May 2015 to June 2017, covers the six key areas of reform: strategic framework for public administration reform, policy development and co-ordination, public service and human resource development, accountability, service delivery and public financial management, including public procurement and external audit.

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

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

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

¹ OECD (2017), *The Principles of Public Administration*, OECD, Paris: http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

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

³ OECD (2015), *Baseline Measurement Report: the former Yugoslav Republic of Macedonia*, OECD Publishing, Paris, <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-fyRMacedonia.pdf>

OVERVIEW

The former Yugoslav Republic of Macedonia has been an EU candidate country since 2005 but in recent years the EU integration process has been very slow. Additionally, in 2015, 2016 and the first half of 2017, due to the political situation, progress in reforming the public administration has been very limited.

A continuous pre-electoral period spanning nearly the entire year of 2016 and the prolonged period of forming the Government after the December 2016 elections, paralysed policy planning and policy development, stopped the implementation of new laws regulating the area of public service and human resource management, and proper implementation of the Law on General Administrative Procedures, and has had a significant impact on the budgetary calendar.

The Public Administration Reform (PAR) Strategy expired at the end of 2015 and a new one has not been finalised. The Public Financial Management Reform Programme remains a draft.

In addition, a low level of transparency in policy making and governance has been a significant issue during this period.

The new Government needs to give additional impetus to initiating, implementing and embedding reforms across all areas of the public administration, to enable meaningful preparation for the EU integration process.

In particular, this report identifies five key PAR-related priorities:

- Setting the strategic framework for reforms;
- Improving the quality and transparency of the policy making process;
- Improving the financial management and control system, particularly within the budget users of public administration institutions;
- Harmonising the public procurement regulations with the EU *acquis* in order to improve efficiency and reduce the administrative cost of procurement operations;
- Improving the professionalization of top civil service positions, by reinforcing merit criteria for their appointment processes.

1

Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

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

1.1. State of play

Since expiration of the previous Strategy for Public Administration Reform (PAR)⁴, there has not been a planning document in place comprehensively encompassing any of the areas defined by the Principles of Public Administration⁵. While the Government has prepared draft planning documents related to PAR and public financial management (PFM) reforms, it has not committed to a systematic reform path. Other Government planning documents, such as the Programme of the Government 2014-2018 and the National Programme for Adoption of *Acquis Communautaire* (NPAA), also cover PAR but the planned activities are not based on a systematic assessment of strengths and weaknesses in public administration, and implementation has been modest.

Some reforms are nevertheless taking place, primarily in the service delivery area. The Ministry for Information Society and Administration (MISA) is responsible for co-ordinating PAR, while the Ministry of Finance (MoF) co-ordinates PFM. However, co-operation between the two Ministries on these public-sector reform areas is very limited. A formal co-ordination mechanism for PAR exists at the political level, both through the Committee for Public Administration Reform⁶ and the Government sessions. At the administrative level, PAR-related issues are discussed at the meetings of the General Collegium of State Secretaries.

1.2. Main developments

The following section describes key changes and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

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

Although no formal planning exists for PAR, reforms have continued, mainly with the goal of completing the large-scale initiatives initiated during the previous PAR Strategy, such as harmonising existing legislation with the new Law on General Administrative Procedures⁷; adopting the interoperability framework for public registries; and completing the catalogue of working positions in the entire public sector, to align with the new legislation on public-sector employment⁸. Donor-funded initiatives, such as the Instrument for Pre-accession Assistance (IPA)-funded project aiming to strengthen the State Audit Office, have also moved individual priorities forward.

In 2016, the MISA started preparing a new draft PAR Strategy and Action Plan for the medium-term period. By 30 June 2017, the work had not been finalised.

⁴ Public Administration Reform Strategy 2010-2015, issued December 2010, revised 2012.

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

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

⁷ Official Gazette No. 124/2015.

⁸ The Law on Administrative Servants (Official Gazette No. 27/2014) and the Law on Public Sector Employees (Official Gazette No. 27/2014).

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Strategic Framework of Public Administration Reform

The MoF has led preparations for the PFM Reform Strategy. While the inter-institutional working group has produced a complete draft of the Strategy, including clear performance indicators and risk assessments, wider consultation has not yet begun.

The lack of adopted planning documents has a major impact on the 2017 values of the indicators used in the 2015 Baseline Measurement reports.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁹

2015 Baseline Measurement indicator	2015 value	2017 value
Extent to which the scope of PAR central planning document(s) is complete.	4	0
Extent to which a comprehensive PAR reporting and monitoring system is in place.	3	3 ¹⁰
Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	62.5%	55%
Share of public administration development activities and reforms from all activities in PAR planning documents.	73%	Not available ¹¹
Annual implementation backlog of public administration development activities and reforms.	33%	Not available ¹²
Percentage of fulfilled PAR objectives.	Not available ¹³	Not available ¹⁴
Share of resourced and costed PAR measures.	40.9% ¹⁵	Not available ¹⁶

⁹ OECD (2015), *Baseline Measurement Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris

¹⁰ The indicator is calculated on the basis of reporting on the former PAR Strategy.

¹¹ No strategies exist to assess the share of reform-oriented activities.

¹² No new or updated strategies exist to calculate the share of activities that have been postponed until the next year.

¹³ The value of the indicator was not established, owing to the lack of outcome-level performance indicators and targets linked to the policy objectives set in the previous PAR Strategy 2010-2015.

¹⁴ Ditto.

¹⁵ The value of the indicator represents the share of costed actions in the PAR Action Plan (revised in 2012). It should be noted that the costs of individual actions are not included in the body text of the Action Plan, but in a separate Microsoft Excel file that was provided to SIGMA. According to the MISA, this costing was adopted by the Government together with the PAR Action Plan.

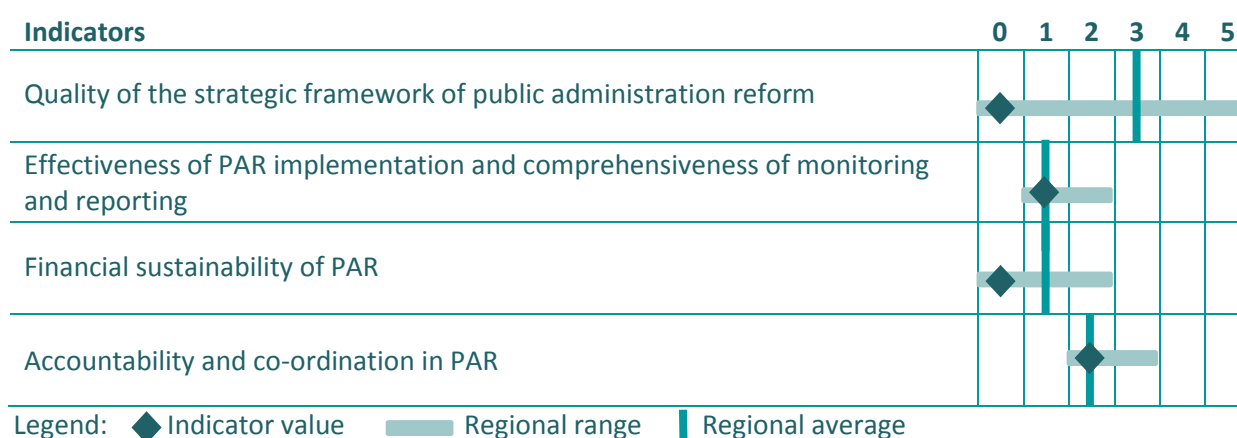
¹⁶ No strategies or other documents exist to provide costing information on PAR plans.

2. ANALYSIS

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

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

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



Analysis of Principles

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

The former PAR Strategy expired in 2015, and in 2016 the Government started to elaborate two new strategies, the PAR Strategy and the PFM Reform Programme, for which an initial internal consensus on the content and objectives has been reached at the level of the civil servants involved. In May 2017, the MISA initiated consultations with international partners on the draft PAR Strategy, and in June 2017 the draft PAR Strategy was published for public consultation.

In the absence of current PAR strategic planning documents, most aspects of the Principles of Public Administration relating to the strategic framework of PAR are not in place or cannot be examined. Coverage of the full scope of the PAR agenda is very low, with only sporadic activities identifiable in the central planning documents, such as the NPAA and the Economic Reform Programme. The coherence among planning documents, the presence of minimum content and the reform orientation of the planned measures cannot be analysed. The only requirements open to analysis pertain to the prioritisation of PAR in key horizontal planning documents and the participation of civil society organisations (CSOs) in preparing the strategic plans.

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

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The prioritisation of PAR is very weak. Of the three key horizontal government documents (the four-year Government Programme¹⁸, the ERP and the NPAA), only the Government Programme elaborates on several substantive areas of PAR, namely the public service, accountability and service delivery. The latest available revision of the NPAA¹⁹ features specific information on PAR-related activities in individual European Union (EU) accession negotiation chapters (e.g. Chapters 32 and 33), as well as a more general chapter on PAR that provides only general information on a number of ongoing initiatives. The ERP mainly covers the PFM area.

The draft PAR Strategy and Action Plan were prepared with the formal involvement of CSOs, and public consultation was carried out in June 2017; the draft PFM Reform Programme had not been disclosed to national non-governmental organisations (NGOs) by 30 June 2017.

The coherence of the new PAR planning documents has been examined to see whether they overlap and whether they provide the necessary cross-references and explanations of related reforms. The analysis shows that the two draft planning documents²⁰ do not overlap or contradict each other (the draft PAR Strategy covers all areas except PFM), but they do not acknowledge any interconnection: the draft PAR Strategy does not even mention PFM as one of the areas included in the PAR agenda.

The new draft planning documents themselves are, however, quite complete: both feature a situation analysis, as well as objectives, indicators and activities linked to specific institutions, and stipulate clear deadlines for completion. Most of the measures they cover can be considered reform-oriented. The draft PAR Action Plan provides some costing information; the PFM Reform Programme provides more complete costing information and risk assessment, as well as detailed indicator specifications.

No formal planning documents covering the PAR agenda exist. Hence, the value for the indicator 'Quality of the strategic framework of public administration reform' is 0.

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

Sub-indicators	Points
1. Coverage and scope of PAR planning documents	0/5
2. Prioritisation of PAR in key horizontal planning documents	1/2
3. Coherence of PAR planning documents	0/4
4. Presence of minimum content of PAR planning documents	0/7
5. Reform orientation of PAR planning documents	0/3
6. Quality of consultations related to PAR planning documents	0/2
Total²¹	1/23

¹⁸ Programme of the Government 2014-2018.

¹⁹ The 2016 update of the NPAA.

²⁰ Draft PAR Strategy and draft PFM Reform Programme from April 2017.

²¹ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

No approved Government planning documents exist for PAR. A comprehensive draft of the PFM Reform Programme was prepared by July 2016, without any significant follow-up until June 2017. A draft PAR Strategy was prepared, with some involvement of CSOs and public consultation in June 2017.

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

As no strategic plans are in place for PAR, the monitoring and reporting system is not operational. In the case of the former PAR Strategy, the established reporting and monitoring system defined the roles of various institutions in the process and the timeline for reports, which were ultimately prepared with varying frequency. Quarterly and annual reports (including information on the outputs produced and activities completed) were prepared for the last year (2015) of the PAR Strategy, but were not sent to the Government for approval²² or disclosed to the public. Furthermore, CSOs were not involved in monitoring or evaluating the Strategy. Even the organisations involved in the teams working on the new PAR Strategy have not been provided with the reports on the previous one.

The last PAR Strategy report (2015) offers no information on the level of implementation of individual measures or activities; it only provides information aggregated to the level of the main fields covered and the overall Strategy (78% implementation rate). No formal plans were in place for 2016; as a result, the implementation rate cannot be calculated for the respective sub-indicator (see below). Since the achievement of objectives was not systematically evaluated, the fulfilment of PAR objectives cannot be assessed. No outcome indicators were defined for objectives of the previous Strategy.

The new draft strategic documents for PAR and PFM, if adopted, would demonstrate a step forward compared to the former PAR Strategy, and would provide a better basis for monitoring and reporting.

Both documents²³ contain outcome indicators linked to their objectives and foresee reports informing on the achievement of these objectives based on the indicators. The draft PFM Reform Programme also provides specifications²⁴ detailing outcome-level indicators, including data sources, the timeline for data availability, the calculation formulas, the responsible institutions, and the baseline and target values.

The draft PAR Strategy also foresees public debates on PAR implementation at least twice a year, open to all stakeholders, including the academic communities, CSOs and chambers of commerce, and that the reports would be made public.

No assessment of the outcomes of the PAR policy has occurred, no NGOs have been involved in monitoring, and no monitoring and reporting at all took place in 2016. Hence, the value for the indicator 'Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting' is 1.

²² The latest report on the previous PAR Strategy, the "Report on the assessment of the implementation of the Action Plan of the Strategy for Public Administration Reform 2010-2015", was sent to the Government only for information.

²³ Draft PAR Strategy and draft PFM Reform Programme of April 2017.

²⁴ Comparable to indicator passports used in other countries of the region.

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Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting

This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.

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

Sub-indicators	Points
1. Comprehensiveness of PAR reporting and monitoring systems	3/8
2. Implementation rate of PAR activities (%)	0/4
3. Fulfilment of PAR objectives (%)	0/4
Total²⁵	3/16

Although a monitoring and reporting system had been established for the former PAR Strategy, reports on its implementation focused almost exclusively on outputs. The achievement of the objectives was not systematically assessed, and the reports were not published.

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

Neither the former PAR Strategy and Action Plan nor its reports contain information on expenditure needs or actual funding. The funding of the former PAR Strategy cannot be determined, not only because the document does not contain this data, but also because the medium-term Fiscal Strategy and annual budget do not provide an expenditure breakdown for sector strategies or programmes.

The new draft planning documents for PAR and PFM provide information on the initial estimated need for additional resources. The estimates cover additional implementation costs and identify the financing sources.

The new planning documents are not finalised, and PAR funding is not identifiable in the budget documentation. As a result, the value for the indicator on 'Financial sustainability of PAR' is 0.

Financial sustainability of PAR

This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.

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

Sub-indicators	Points
1. Costed PAR activities (%)	0/3
2. Completeness of financial information in PAR planning documents	0/4
3. Actual funding of the PAR agenda	0/3
Total²⁶	0/10

The financial resources planned or used for the implementation of the national PAR policy cannot be identified. The new PAR planning documents are not finalised. The medium-term or annual budget documentation does not provide for clear appropriation of funds for PAR.

²⁵ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

²⁶ Point conversion ranges: 0=0, 1-3=1, 4-5=2, 6-7=3, 8-9=4, 10=5.

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Strategic Framework of Public Administration Reform

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

The legislation²⁷ clearly identifies MISA as the main body responsible for PAR management, co-ordination and monitoring. The PFM area falls under the responsibility of the MoF. According to the actors involved²⁸, and as evidenced by the composition of the working groups for the preparation of the new PAR and PFM reform plans, little co-operation takes place between these two structures.

Managerial responsibility is also assigned for the overall co-ordination, monitoring and reporting of PAR. A unit for PAR co-ordination has been set up in the MISA; it features five positions, two of which are filled by staff²⁹. The unit is positioned under the Sector for Reform of Administration.

A formal co-ordination mechanism is in place for PAR at the political level, both through the Committee for Public Administration Reform³⁰ and the Government sessions. At the administrative level, PAR-related issues are discussed at the meetings of the General Collegium of State Secretaries, but a more specific operational or expert level co-ordination team has not been formally established for the PAR agenda.

According to the draft planning documents³¹, both PAR and PFM will have a separate co-ordinating body at the political level. The PAR strategy should be overseen by the Committee for Public Administration Reform. The Committee was set up in 2011 and is presided over by the Prime Minister (PM), but has not been convened since 2015. The PFM Reform Programme is to be co-ordinated by the Economic Council, chaired by the PM and comprising the Government ministers related to economic development. Government sessions will remain the formal decision-making forum for all key policy decisions.

At the administrative level, no specific body is planned to oversee the new PAR Strategy, and the General Collegium of State Secretaries should serve as the administrative co-ordination body for the area. A specific PFM working group³² comprising all relevant administrative stakeholders was established during the development of the draft PFM Reform Programme. According to this draft, a similar body is foreseen to co-ordinate its implementation, monitoring and reporting.

Representatives of external stakeholders did not participate in the expired PAR Strategy, and the draft PAR and PFM reform plans do not envisage inviting them to be part of future co-ordinating bodies. However, the draft PAR Strategy was developed with the participation of CSOs; the draft document also foresees involving stakeholders in public debates on PAR implementation at least twice a year.

The responsibilities for implementing the new activities under the PAR and PFM planning documents are not yet formalised, and the existing PAR co-ordination structures are not fully operational. As a result, the value for the indicator 'Accountability and co-ordination in PAR' is 2.

²⁷ Law on Organisation and Operation of State Administrative Bodies, Article 26a, Official Gazette Nos. 58/2000, 44/2002, 82/2008, 167/2010 and 51/2011.

²⁸ Confirmed by all interviews conducted in April 2017.

²⁹ Information based on interviews with the MISA.

³⁰ Decision on Establishment of a Committee for Reforms of the Public Administration, Official Gazette Nos. 112/2011 and 122/2011, August 2011.

³¹ Drafts provided to SIGMA in April 2017.

³² Working group members include the key departments of the MoF, the Public Procurement Bureau, the Public Revenue Office, the Customs Administration, the State Audit Office and the Secretariat for European Affairs.

Accountability and co-ordination in PAR

This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative levels, and the performance of the leading institution.

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

Sub-indicators	Points
1. Establishment of organisational and managerial accountability for PAR	4/6
2. Co-ordination mechanisms for PAR	2/10
Total³³	6/16

The MISA is formally identified as the main body responsible for PAR management and co-ordination. Political-level co-ordination structures are in place, but have not been operational in 2016. No alignment or systematic co-ordination exists between the PAR and PFM areas.

Key recommendations

Short-term (1-2 years)

- 1) The MISA should improve the new PAR Strategy and Action Plan during its finalisation stage. It should complete detailed costing of the planned actions, develop specifications for the planned indicators, carry out proper public and interministerial consultations, and prepare the final drafts for the Government's decision.
- 2) The MISA should establish a separate administrative-level co-ordination and monitoring body for monitoring and reporting on the future PAR Strategy. In particular, it should include the key senior and mid-level managers responsible for achieving the Strategy's objectives and should brief the Collegium of State Secretaries as part of the Government's decision-making process.
- 3) Co-operation between the PAR and PFM co-ordination teams and among other co-ordinating bodies should be established and enforced in practice.
- 4) The MISA and the MoF should include non-governmental stakeholders in the PAR and PFM co-ordination bodies.

Medium-term (3-5 years)

- 5) The MISA and the MoF should determine the total cost of the national PAR policy, including recurrent expenditures of the key institutions involved, on both an annual and medium-term basis.

³³ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.



POLICY DEVELOPMENT AND CO-ORDINATION

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

1.1. State of play

The legal framework for policy development and co-ordination, including European integration (EI), has been in place for several years, without incurring significant changes. Key laws and the Government Rules of Procedure (RoP) set clear procedures for the functioning of the centre of government (CoG) and policy development in ministries. However, significant implementation challenges remain, both at the level of the CoG and ministries, hindering the delivery of high-quality policy and legislative proposals.

Overall, in 2016 the policy-making system was characterised by a low level of transparency, as Government decision-making and key Government reports were not regularly made public. A clear system is established for medium-term Government work planning and good integration with EI planning. The key missing element is the lack of requirements and uneven practices with regard to sector strategies.

While tools for evidence-based policy making are developed, analysis is often lacking or superficial. Although the regulation requires co-ordination across the Government through consultation with all levels and bodies, implementation is, here again, inconsistent. Both primary and secondary legislation are made available to the public online, but the Legislative Committee of the Assembly only develops official consolidated versions of legal texts when foreseen for specific legislative amendments. A small share of legislation is also available in an unofficial consolidated format.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement³⁴ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

A continuous pre-electoral period spanning nearly the entire assessment year (2016) paralysed policy planning and policy development. The situation has had repercussions on the functioning of both the Government and the overall public administration. Extraordinary shortened procedures were applied routinely when submitting policy proposals for consideration at the Government sessions and for adoption by the Assembly. The annual plans adopted for 2016 were implemented less consistently than previous years' annual plans, and the amount of items carried forward to the following year has grown. Openness and transparency in Government functioning further deteriorated in 2016, with most key Government reporting not made publicly available.

The situation has begun to improve recently, with Government meeting agendas and Government decisions made public since the end of May 2017.

The country has not begun implementing most of the recommendations made in the 2015 SIGMA Baseline Measurement Report for the policy development and co-ordination area³⁵. Among the few notable exceptions are Government efforts to improve policy development by organising legislative-drafting training and initiating a functional analysis of ministries.

³⁴ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

³⁵ OECD (2015), *Baseline Measurement Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris, pp. 18-41.

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

CoG institutions continued their traditional functions in 2016, although central follow-up and scrutiny of policy proposals were often weaker than in previous years. Co-ordination of policy content and regular co-ordination with the Assembly are not in place, as was also the case in 2014 and 2015. Further weaknesses emerged in 2016 with regard to monitoring the Government Annual Work Programme (GAWP) and communicating Government decisions. The most recent GAWP was not disclosed to the public, nor has the Government issued a report on the implementation of the GAWP for the past two years, resulting in a lower value of the 2017 indicator on the fulfilment of critical CoG functions.

As regards the EI functions, the Government has not published the most recent reports on the implementation of the National Programme for the Adoption of the *Acquis* (NPAA), but this change alone did not lead to a change in indicator value compared to 2015.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports³⁶

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Proportion of critical CoG functions that are fulfilled by the institutions.	4	3
	EI functions are fulfilled by the institutions.	3	3

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

The preparation of key Government planning documents (such as the GAWP, the NPAA and the Fiscal Strategy) was continued by the administration according to the annual routine but the 2017 GAWP was not published. Moreover, reporting against the established plans has deteriorated: the annual reports on the GAWP and the NPAA are not available as foreseen in the annual timetable.

The long-standing weaknesses pertaining to financial estimates in sectoral policy planning have remained: not only are there no requirements for costing sector strategies, but many strategies do not systematically include information on the related expenditure needs. As previously, no systematic monitoring takes place of the outcomes of the Government's work. Apart from the annual report on the use of the state budget, the reports on the work of the Government are not made public.

The share of commitments carried forward in central planning documents increased considerably, from 16% in 2015 to 54% in 2017. A similar trend applies to EI-related commitments, for which the share of items carried forward to the next year increased from 10% in 2015 to 38% in 2017.

³⁶ OECD (2015), *Baseline Measurement Report: the former Yugoslav Republic of Macedonia*, OECD Publishing, Paris, [Baseline Measurement Report: The former Yugoslav Republic of Macedonia](#)

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

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Completeness of financial estimates in sector strategies ³⁷ .	0	0
	Extent to which reporting provides information on the outcomes achieved.	1	1
Quantitative	Annual implementation backlog of planned commitments in the central planning document(s).	16%	54%
	Annual backlog in developing sectoral strategies.	20%	20%
	Ratio between total funds estimated in the sectoral strategies and total funding identified for corresponding sectors within the MTBF ³⁸ .	0%	0%
	Annual implementation backlog of EI-related commitments.	10%	50%

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

The year 2016 was exceptional for Government decision making, owing to the extensive use of extraordinary procedures. At only 11%, the indicator of the ratio of regular agenda items submitted on time by the ministries to the Government sessions was extremely low. This performance can be explained by the harmonisation of a few horizontal laws, such as the Law on General Administrative Procedures³⁹ (LGAP), since the Government submitted numerous technical law amendments to the Parliament without following the standard RoP.

Transparency in Government decision making did not improve in 2016, as the agendas of the Government sessions and individual Government conclusions were not systematically published. This changed at the end of May 2017, however, and both are now made public.

The Assembly was not fully operational in 2016. Although the number of amendments to laws is statistically high (340 laws or law amendments were adopted in 2016⁴⁰), the Assembly had limited opportunity in practice to scrutinise the effects of legislation and policy making: most of the changes made to the laws were technical adjustments to harmonise existing legislation with new systemic laws. Moreover, shortened procedures were applied in most parliamentary procedures, a steadily rising trend over the last four years.

³⁷ Based on a sample of five recently adopted sector strategies.

³⁸ The ratio is calculated as a percentage (0% being the minimum and 100% the maximum) illustrating the differences between planned funding in the last five strategies adopted and the medium-term economic framework (MTEF). The outcome value of the indicator is the average of the five cases. In the event that a lack of financial data in the MTEF and/or in sector strategies makes it impossible to calculate, the ratio is determined as 0%.

³⁹ Official Gazette No. 124/2015.

⁴⁰ 2016 Annual Report of the Assembly.

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

	2015 Baseline Measurement indicator	2015 value	2017 value
Quantitative	Ratio of regular agenda items submitted on time ⁴¹ by ministries to the government session.	95%	11%
	Ratio of laws initiated by the government and approved by the parliament no later than one year after submission.	100%	Not available ⁴²
	Number of law implementation reports discussed in the parliament.	0	0

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

Overall, policy-development practices have deteriorated over the past two years; this is reflected in the lower indicator values based on the 2015 indicator assessment methodology.

The indicator on the use of analytical tools in policy development retains a value of 3. However, the samples reviewed show that the quality of Regulatory Impact Assessments (RIAs) has deteriorated: even though the regulations oblige line ministries to perform *ex-ante* policy analysis, RIAs are often not performed, and the expected financial impacts are not properly calculated. Where RIA documents were prepared, the policy-development techniques used in 2016 were very simplistic.

The value of the indicator on public consultation also dropped from 3 to 2. Public consultation is regulated, but the requirements are not followed in practice. Many ministries did not open their proposals to public consultation in 2016.

The value of the indicator on interministerial consultation also decreased from 3 to 2. Interministerial consultation is inconsistent, overviews of opinions (tables of opinions) from CoG institutions are regularly missing, and other ministries are not involved in the consultation process.

A few notably positive steps can be noted since the first half of 2015. The Ministry of Information Society and Administration (MISA) and the Secretariat for Legislation (SL) co-operated in providing training to civil servants on legislative drafting. The role of the Secretariat for European Affairs (SEA) has been enhanced, as the RoP contain a provision obliging ministries and other state administration bodies to submit materials on the transposition of European Union (EU) legislation for the opinion of the SEA. The MISA also performed analyses of ministries' practices in relation to RIAs and public consultation.

⁴¹ "On time" is understood as within the procedural criteria set by regulation(s).

⁴² No data provided.

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

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

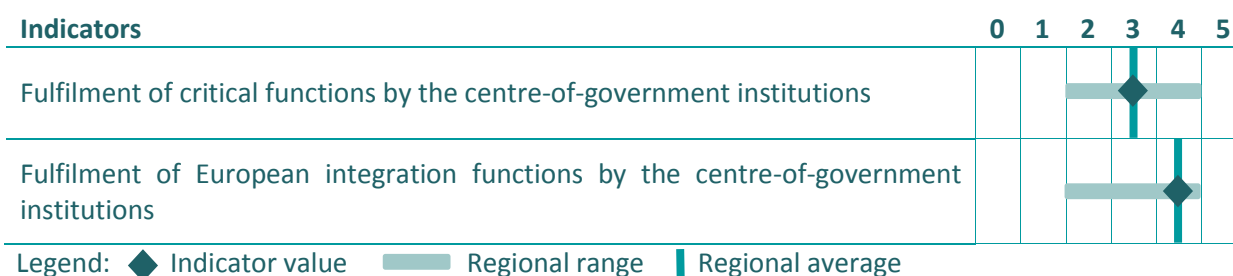
2. ANALYSIS

Policy planning and co-ordination

This analysis covers 12 Principles for the policy development and co-ordination area grouped under 4 key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators⁴³, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

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



Analysis of Principles

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

According to the relevant legislation⁴⁴, the institutions fulfilling CoG functions⁴⁵ are: the General Secretariat (GS), which prepares Government meetings, co-ordinates the preparation of strategic priorities and the GAWP, monitors Government performance, co-ordinates Government communication, and manages the relationship between the Government and other parts of the State; the SL, which ensures legal conformity, including compatibility of the national legislation with the EU *acquis*, and (together with the SEA) assesses the level of harmonisation; the Ministry of Finance (MoF), which prepares the Fiscal Strategy and budget, and provides opinions on fiscal-impact assessments developed by the ministries; and the MISA, which promotes the use of RIAs.

The above-mentioned regulatory framework does not adequately regulate the policy content of proposals submitted for a Government decision, as it does not clearly stipulate how to ensure the coherence of new drafts with Government priorities and previously announced policies. In addition,

⁴³ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁴⁴ Law on the Government, Official Gazette Nos. 59/2000, 12/2003, 55/2005, 37/2006, 115/2007, 19/2008, 82/2008, 10/2010, 51/2011, 15/2013 and 139/2014).

The RoP of the Government of the Republic of Macedonia, Official Gazette No. 38/01, and the Amendments.

Law on the Organisation and Operation of the State Administrative Bodies, Official Gazette Nos. 58/00, 44/02/, 82/08, 167/10, 51/11.

⁴⁵ Critical functions of CoG, as defined by OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 19, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

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 legislative framework⁴⁸ assigns most EI functions to the SEA, which is headed by the Deputy Prime Minister for European Affairs. The SEA is responsible for organising the overall daily co-ordination of EI, including accession negotiations; planning the EI, including costing reforms; monitoring country preparations for the EI process, including preparing reports on EI policies; co-ordinating the alignment of national legislation with the *acquis*; preparing the national version of the *acquis*; co-ordinating the planning and overall monitoring of EU assistance; and capacity building for EI. The SEA and the SL jointly provide formal opinions prior to the submission of draft legal acts transposing the *acquis*.

The responsibilities prescribed by legislation are fulfilled in practice. The reporting function is performed on a regular basis (mostly for the Government) but the reports are not publicly available. As accession negotiations have not yet begun, this function is also understandably not fulfilled in practice. Various guidelines prepared by the SEA (on providing input to planning, monitoring EI and EU assistance plans, and transposing and translating the *acquis*), support all the key activities. The Secretariat has even prepared a document to support the negotiation process when it begins.

Interministerial co-ordination bodies are established at the political and administrative levels. At the political level, the Special Ministerial Working Group⁴⁹ addresses urgent reform priorities, while the Working Committee for European Integration (WCEI)⁵⁰ leads the overall EU-integration process⁵¹. At the administrative level, the Subcommittee for the Working Committee for European Integration (SWCEI) co-ordinates daily EI-related activities. NPAA Working Groups were established in 2009⁵²; 37 groups are planned in total⁵³.

The WCEI consists of State Secretaries and is chaired by the Deputy Prime Minister for European Affairs; at the operational level, it is supported by the SWCEI⁵⁴. The SWCEI comprises the heads of the NPAA Working Groups and is chaired by the State Secretary of the SEA. At the technical level, the NPAA Working Groups, which comprise representatives of ministries and other relevant state administration bodies, prepare and discuss the materials prepared for the EI. Each Working Group has a designated lead institution for each chapter. When fully operational, the Working Groups will comprise about 900 people from 151 different institutions. The SEA serves as the Secretariat for the WCEI and the SWCEI. Since the country's integration has decelerated considerably in recent years owing to a stalemate in the EU-accession process, this sophisticated EI co-ordination structure has not been used fully (the WCEI has not convened since 2013).

Most of the criteria for the indicator 'Fulfilment of European integration functions by the centre-of-government institutions' are fulfilled. However, the EI co-ordination bodies were not operational in 2016⁵⁵. Therefore, the value for the indicator is 4.

⁴⁸ Law on the Government; Rules on Internal Organisation of the SEA; Government Decision of 6 August 2008 on Establishing the Working Committee for European Integration of the Government of the Republic of Macedonia; Decision of 6 November 2009 on Establishing Working Groups for Preparation of the National Programme for the Adoption of the Acquis and the Preparation of Negotiating Positions for Negotiations to Join the EU, Official Gazette No. 137/2009, amended 2015, Official Gazette No. 66/2015.

⁴⁹ Government Decision of 15 June 2015 on the Special Ministerial Working Group.

⁵⁰ Government Decision of 6 August 2008 establishing the Working Committee for European Integration of the Government of the Republic of Macedonia. The Deputy Prime Minister for European Affairs chairs the Committee, which comprises all State Secretaries of the ministries.

⁵¹ Government Decision on the Working Committee for European Integration, Official Gazette No. 25/2003.

⁵² Government Decision on Establishing Working Groups for Preparation of the National Programme for the Adoption of the Acquis and the Preparation of Negotiating Positions for Negotiations to Join the EU, Official Gazette No. 137/2009, amended 24 April 2015.

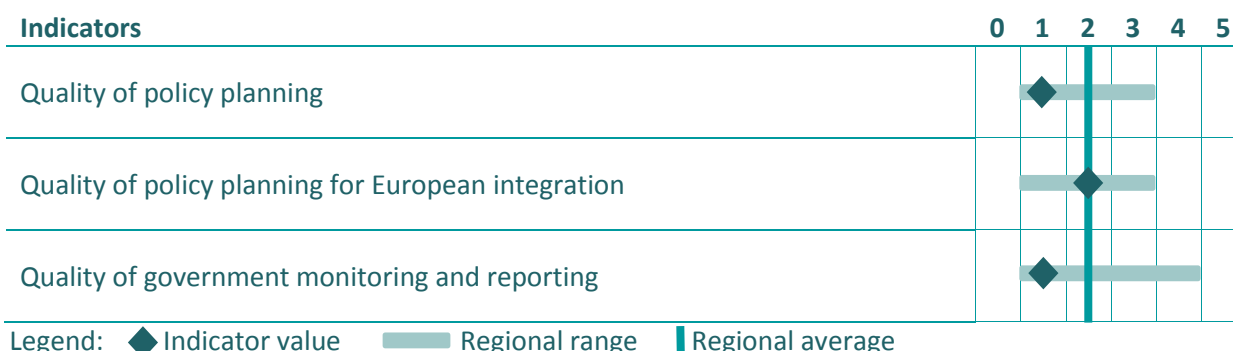
⁵³ Information submitted by the SEA.

⁵⁴ Established by the RoP of the WCEI.

⁵⁵ The co-ordination structures restarted their regular work in August 2017.

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

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



Analysis of Principles

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

The regulatory framework for medium-term policy planning comprises a range of documents⁵⁷, including laws and Government decisions complemented by guidelines, methodologies and manuals on various planning aspects. The framework clearly defines the status of the key government planning documents, including their hierarchy and the steps in their planning process, and appoints the institutions responsible for the Government-level policy-planning function. However, neither the substance nor the procedures for sectoral strategy planning are regulated. The GS keeps a public registry of existing sector strategies, but no central steering occurs in relation to the number, processes, content or quality of sector strategies. It should, however, be noted that the ministries possess the basic capacities for medium-term planning, thanks to a well-institutionalised practice of preparing three-year institutional strategic plans featuring financial estimations and linked to the budget process.

The key horizontal planning documents of the Government are: the Government Programme; the Annual Strategic Priorities; the Fiscal Strategy; the GAWP (including the legislative plan); and the NPAA. It should be noted that the Fiscal Strategy is not a fully developed medium-term budgetary framework (MTBF), as it does not define sectoral policy priorities or include medium-term sectoral or institutional ceilings. Although a longer-term national development plan does not exist, the Economic Reform Programme, which is co-ordinated by the MoF, partly fulfils this role from a medium-term perspective.

The GAWP sets out priorities, including planned legislative proposals for submission to the Parliament, as well as by-laws and other initiatives (programmes, strategies, reports and information issues) under Government jurisdiction, indicating their priority level and potential fiscal impact. While the document is quite comprehensive, a considerable share of the initiatives are purely informational, rather than regulatory.

⁵⁷ The RoP of the Government of the Republic of Macedonia, Official Gazette No. 38/01, and the amendments; the Budget Law, Official Gazette Nos. 64/2005, 4/2008, 103/2008, 156/2009, 95/2010, 180/2011, 171/2012, 192/2015 and 167/2016; Guidelines for the Handling of Ministries and Other State Bodies in the Preparation and Monitoring of the Implementation of the Annual Work Programme of the Government, Official Gazette No. 22, 16 February 2015; Methodology for Strategic Planning and Preparation of the Annual Programme of the Government, 2008; and the Manual on Strategic Planning, 2014.

Given the unclear political situation during the assessment period, the accuracy and relevance of the planning process are weak. Most Government proposals to amend laws occurred outside of the annual planning framework; 54% of all the laws planned in the 2016 GAWP were also planned in the 2017 GAWP. Despite the relatively realistic overall volume of planned laws (30 in 2016), the adoption backlog is high. On the other hand, the backlog for sector strategies is low (20%), helped by moderate planning: only five sector strategies were on the books for adoption in 2016.

The key horizontal government planning documents – the GAWP and the NPAA – are better aligned and harmonised, and prepared according to well-co-ordinated procedures guiding the line ministries through templates and joint seminars. There are no outcome-level indicators established in the GAWP or the Fiscal Strategy for measuring the achievement of Government priorities. As a classic MTBF does not exist, analysing its alignment with Government priorities is not possible. An analysis of the assessed sample of sector strategies and action plans⁵⁸ shows that the legislative plan – the GAWP – is not in line with the action plans of strategies regarding laws (according to the sample action plans from 2016, none of the laws to be approved by the Government in 2017 were included in the 2017 GAWP). As a result, the value of the respective sub-indicator is zero.

Costing information for sector strategies is rarely provided, and identification of sources of funding is even rarer⁵⁹. The budgetary alignment of sector strategies with the MTBF cannot be assessed, as the Fiscal Strategy does not provide the necessary information. As a result, the respective sub-indicator has a value of zero.

Gaps exist in the alignment between Government planning documents. The GAWP legislative agenda was not strongly implemented in 2016. No minimum requirement or guidance exists on sector strategies, and the financial estimates for sector strategies are not systematically available or comparable with the Fiscal Strategy. As a result, the value for the indicator 'Quality of policy planning' is 1.

⁵⁸ The following sector strategies adopted during 2016 were analysed: the Competitiveness Strategy 2016-2020; the Equality and Non-discrimination Strategy; the Health Strategy 2020; the Police Development Strategy; and the Youth Strategy Action Plan 2016-2017.

⁵⁹ Based on the analysis of the five sector strategies.

Quality of policy planning

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

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

Sub-indicators	Points
1. Adequacy of the legal framework for policy planning	4/7
2. Availability of guidance to line ministries during the policy-planning process	1/4 ⁶⁰
3. Alignment between central policy-planning documents	0/6
4. Planned commitments carried forward in the legislative plan of the government (%)	0/4
5. Planned sectoral strategies carried forward (%)	3/4
6. Completeness of financial estimates in sector strategies	1/5
7. Alignment between planned costs in sector policy plans and medium-term budget (%)	0/3
Total⁶¹	9/33

Despite the existence of a sophisticated annual and multi-annual planning system, many important initiatives have not been integrated into formal planning, indicating shortcomings in ministry planning. The development of sector strategies is neither regulated nor centrally controlled, although sectoral planning practices and capacities are present in ministries' strategic plans.

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 legal framework for EI planning is based on the Law on the Government, but the status and requirements for planning documents and the planning process are featured mainly in the methodologies on strategic planning⁶², the SEA Rulebook⁶³ and the regulation establishing the interministerial bodies (WCEI, SWCEI and NPAA working groups)⁶⁴ that co-ordinate the planning process.

The NPAA, which is prepared and revised annually, sets timing priorities (e.g. activity deadlines) within sectors or negotiation chapters; it features cost estimates and provides detailed information on donor funding. It is prepared and adopted, together with the GAWP, through close co-operation between the SEA and the GS. The ministries co-ordinate the annual planning process and there is a good level of alignment between the GAWP and NPAA, but implementation rates were low in 2016. Reports on NPAA implementation are prepared on a quarterly basis, but are not made publicly available.

⁶⁰ The authorities did not provide the guidance issued for the Fiscal Strategy and the annual report of the Government.

⁶¹ Point conversion ranges: 0-5=0, 6-11=1, 12-17=2, 18-23=3, 24-29=4, 30-33=5.

⁶² Methodology for Strategic Planning and Preparation of the Annual Programme of the Government, 2008, and the Manual on Strategic Planning, 2014.

⁶³ Rules on Internal Organisation of the SEA.

⁶⁴ Regulation on WCEI and its Subcommittees; Regulation on NPAA Working Groups.

The high share of EI commitments carried forward (50% from 2016 to 2017) and the low implementation rate of EI-related legislative commitments (38% in 2016), stemming from a combination of unrealistic planning and the extraordinary political situation of the past two years, impact on the quality of the planning activity and ministries' capacity (and willingness) to implement predefined plans. These factors cause the value for the indicator 'Quality of policy planning for EU integration' is 2.

Quality of policy planning for European integration						
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.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. The legal framework enables harmonised planning of EI	2/2
2. Quality of planning documents for EI	6/6
3. EI-related commitments carried forward (%)	0/4
4. Implementation rate of the government's plans for EI-related legislative commitments (%)	0/4
Total⁶⁵	8/16

The EI planning and monitoring system is in place and linked with the GAWP. However, monitoring reports are not made publicly available. The NPAA is a comprehensive document that includes costed activities, but does not provide funding sources. The backlog in EI-related tasks is high, and the annual implementation rate is very moderate.

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

The legal framework⁶⁶ is in place. It stipulates regular monitoring and reporting on the implementation of key horizontal central planning documents, such as the four-year Government Priorities, the GAWP, the NPAA, the Fiscal Strategy and the annual budget. The RoP for monitoring the implementation of sector strategies are not regulated. The regulations do not stipulate that reports of key central-planning documents issued by public bodies must be made publicly available. The only exception is the annual financial report on the budget.

Notwithstanding the requirements set in the legal framework, the Government only prepares reports on the annual budget and the NPAA; no reporting took place in 2015 and 2016 on the GAWP. Nevertheless, continuous monitoring occurs through the Single National Electronic Register of Regulations (SNERR), which is maintained by the GS. The SNERR also serves to keep track of line ministries' obligations and warn the ministries when they are late or negligent. In addition, the OPM

⁶⁵ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

⁶⁶ Budget Law; Law on the Government of the Republic of Macedonia; the RoP of the Government of the Republic of Macedonia, Official Gazette No. 38/01, and the Amendments; Guidelines for the Handling of Ministries and Other State Bodies in the Preparation and Monitoring of the Implementation of the Annual Work Programme of the Government, Official Gazette No. 22, 16 February 2015; and the Rules on Internal Organisation of the SEA.

prepares an internal report for the Prime Minister (PM) on the accomplishment of the GAWP and the legislative plan.

Government reporting focuses mostly on outputs. When reports (e.g. on the NPAA and the budget) are prepared, they include information on outputs. None of the reports on key Government planning documents discuss outcomes.

As set out in regulations, with the exception of the budget report, no report is made public. However, the report on the NPAA is presented to the Parliament's Committee for EU Affairs, which is generally presided over by the opposition.

Reporting on the GAWP and sector strategies is not available. Key Government reports lack outcome information, and the public availability of monitoring information is very limited. As a result, the value for the 'Quality of government monitoring and reporting' is 1.

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

Sub-indicators	Points
1. The legal framework enables good monitoring and reporting	4/8
2. Quality of reporting documents	2/12
3. Public availability of government reports	1/5
Total⁶⁷	7/25

Although the regulatory framework for reporting is in place – except for sector strategies – the Government prepares reports on the annual budget and the NPAA only. Government reports focus solely on outputs and are generally not available to the public. Only the annual report on the budget is published.

Key recommendations

Short-term (1-2 years)

- 1) An annual report on the GAWP (including a legislative plan) should be prepared and published every year.
- 2) All monitoring reports on the Government central planning documents (including sector strategies) should be made publicly available immediately after their approval.

Medium-term (3-5 years)

- 3) The development of sector strategies should be regulated; the necessary guidelines should be prepared and applied; a structure for ensuring their co-ordination and quality assurance should be designated; and the civil servants responsible for sector strategies should receive capacity building training.

⁶⁷ Point conversion ranges: 0-3=0, 4-7=1, 8-12=2, 13-17=3, 18-21=4, 22-25=5.

- 4) The Fiscal Strategy should be developed into a conventional MTBF defining both sectoral policy priorities, and annual and medium-term sectoral budget ceilings.

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

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



Analysis of Principles

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

The RoP of the Government⁶⁸ serve as the regulatory framework for the GS and other CoG bodies for preparing, holding and communicating the results of the Government sessions. The RoP define the management of the legislative process, including the requirements for submitting proposals. The RoP also set the timing of the different stages of document development, including opportunities for public consultation.

The RoP list all the institutions that should review the materials proposed to the Government. These include the SL (which provides an opinion on all draft laws, regulations and other acts – including, together with the SEA, the compatibility of national legislation with the *acquis*), the MoF (on all materials with a fiscal impact) and the MISA (for proposed laws subject to RIAs). The GS oversees and manages the policy-development process to ensure compliance with the established standards; it has the authority to return to line ministries those items that fail to meet the formal requirements or on the basis of the opinions of other CoG bodies (the SL, the SEA, the MoF and the MISA).

The RoP do not adequately regulate the co-ordination of the policy content of proposals submitted for a Government decision, since they do not clearly stipulate how to ensure the coherence of drafts with Government priorities and previously announced policies. Through its advisers, the OPM provides some scrutiny of proposal content in some priority areas. However, this intervention is not systematic or consistent: it is not built into CoG bodies' preparation of the Government sessions, but is rather provided *ad hoc* at the level of the Government sessions or – at the earliest – when the proposals are being discussed at the sessions of the thematic commissions⁶⁹.

The institutions responsible for developing policy and preparing the Government sessions only partially fulfil the functions and documentation defined by the regulatory framework. The samples reviewed by SIGMA show gaps in the required documentation, and occasionally even missing formal legal scrutiny and financial-affordability checks. As a result, the value of the respective sub-indicator is zero.

⁶⁸ RoP of the Government of the Republic of Macedonia, Official Gazette No. 38/01, and the Amendments.

⁶⁹ The Government has established three thematic commissions, consisting of ministers who discuss proposals for the Government sessions between the meeting of the Collegium of the GS and the Government session.

The policy development process is supported by the SNERR, which is also used for the public consultation on newly developed policy measures (draft laws are published with their RIA assessment), as well as by the CoG bodies when providing opinions on proposals for the Government sessions; the Registry also serves to keep track of line ministries' obligations and warn them when they are late or negligent. The preparation of the Government sessions is supported by the Government Information System.

In the last quarter of 2016, only 11% of all items submitted by ministries to the GS for inclusion in the Government's agenda arrived on time⁷⁰. However, it should again be noted that the country was in a pre-electoral period almost throughout 2016, with the Government playing a purely technical role. Hence, the 2015 data is more relevant to assess this aspect of the preparation process, which is still very low (28%).

Although a net decrease can be reported in the number of items submitted to the Government sessions during the last quarter (2 384 items submitted in 2013; 2 516 in 2014; 838 in 2015; and 444 in 2016), reflecting the political situation of recent years⁷¹, the figures are still high: on average, close to 40 items were submitted to each Government session in 2016. According to the information provided by the SL, the SL reviewed close to 5 000 items in 2016 (including 347 regulatory items)⁷², which represented a considerable workload for the Secretariat. The sessions of the Collegium of General Secretaries, of the Commissions and of the Government also had to process a huge number of non-priority items without the assistance of effective regulatory and practical filters.

Performance on the criterion of openness of the Government's decision-making process is poor. Neither the agendas nor the decisions of the Government sessions have been publicly available before May 2017. In 2016, only selected topics were publicised through press releases, and press conferences are not systematically held. Nevertheless, 54% of the businesses responding to the 2017 Balkan Barometer survey "strongly agree" or "tend to agree" with the following statement: "Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently"⁷³.

The CoG institutions do not consistently ensure that all the procedures governing Government agenda items are followed. In most cases, Government agenda items are not submitted on time. Finally, the agendas and decisions of the Government sessions are not disclosed. As a result of these factors, the value for the indicator 'Transparency and legal compliance of government decision-making' is 2.

⁷⁰ Data provided by the GS.

⁷¹ Ditto.

⁷² Information based on data submitted by the LS for this assessment.

⁷³ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>

Transparency and legal compliance of government decision making

This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision-making, and businesses' perception of the transparency of government policy making.

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

Sub-indicators	Points
1. The legal framework establishes procedures for government sessions	3/5
2. Consistency of the CoG in setting and enforcing the procedures	0/4
3. Timeliness of ministries' submission of regular agenda items to the government session (%)	0/3
4. Openness of government decision-making process	2/4
5. Perceived clarity and stability of government policy making by businesses (%)	2/4
Total⁷⁴	7/20

The rules governing CoG bodies' management of the Government decision-making process, including for preparing the Government sessions and submitting proposals, are defined. However, they are not consistently followed: most agenda items are submitted later than foreseen, and the quality control by CoG institutions is inconsistent. Furthermore, Government decision making is not transparent: agenda items, the materials submitted and even government decisions are not published on a regular basis.

Principle 7: The parliament scrutinises government policy making.

The legislative framework⁷⁵ is in place for the Assembly to provide scrutiny on the Government policy making. The established procedures enable the Assembly and its committees to debate, scrutinise and amend Government policies and programmes. They foresee written and oral questions from Members of Parliament (MPs) to ministers, and the participation of ministers or their deputies in the Assembly's work when an issue under their responsibility is being discussed.

In 2016, the Assembly discussed 340 proposals (mostly amendments aiming to harmonise laws with two new horizontal laws – the LGAP and the Misdemeanour Law⁷⁶), including 335 initiated by the Government. The share of laws adopted through a shortened procedure was very high (70%)⁷⁷, which did not allow the Assembly enough time to debate and analyse the bills. While the country has also used shortened or urgent procedures extensively in previous years, this negative trend has deepened.

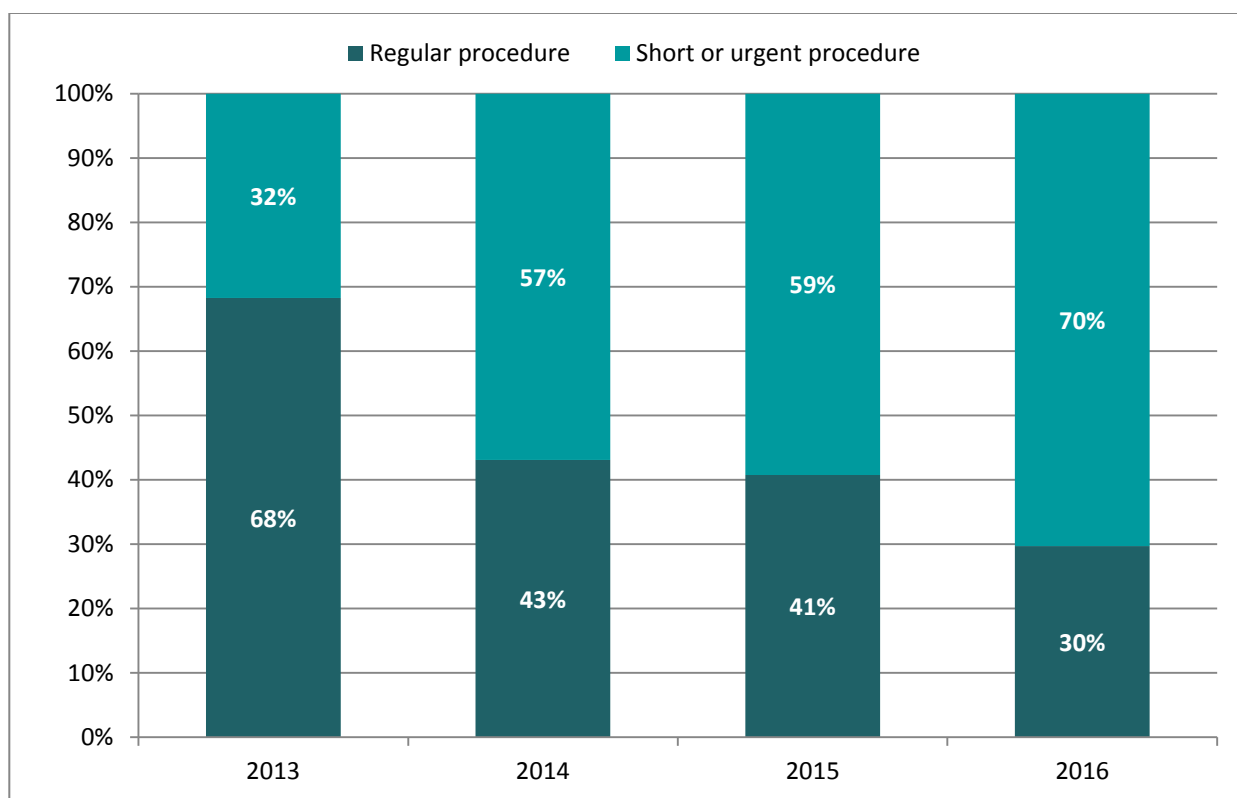
⁷⁴ Point conversion ranges: 0-1=0, 2-5=1, 6-9=2, 10-13=3, 14-17=4, 18-20=5.

⁷⁵ Constitution of the Republic of Macedonia; Law on the Assembly of the Republic of Macedonia, Official Gazette No. 104/09; the RoP of the Assembly of the Republic of Macedonia, Official Gazette No. Official Gazette No. 91/08, 119/10, 130/10, 23/13; the Law on the Government; and the RoP of the Government of the Republic of Macedonia, Official Gazette No. 38/01, and the Amendments.

⁷⁶ Official Gazette No. 124/2015.

⁷⁷ 2016 Annual Report of the Assembly.

Figure 1. Use of extraordinary procedures by the Assembly for the adoption of laws.



Source: Annual reports of the Assembly.

The Assembly follows legal drafting rules and guidelines that are consistent with those followed by the Government. However, the draft laws submitted by the Government to the Assembly do not need to be accompanied by key supporting documents, such as the summary tables of public consultation and RIAs. These documents are not supplied in practice⁷⁸, and the second sub-indicator therefore has a value of zero.

A mechanism is in place to ensure that the Government systematically reviews new legislative proposals initiated by the Assembly. However, an analysis of the sample bills initiated by MPs shows that despite the regulatory basis, the Government does not systematically provide an opinion on parliamentary bills. The RoP of the Assembly⁷⁹ state that in the absence of a Government opinion, the Assembly shall consider the draft law without the opinion.

The Government participates in the parliamentary discussion of drafts: it is always represented when issues under its responsibility are discussed in plenary sessions at the political level, as well as at the political and/or administrative level in committee sessions, when invited by the Assembly.

Information on the Government's legislative initiatives (including EI-related initiatives) is made available to the Assembly at the beginning of each calendar year. This has limited value, however, as most of the legal acts adopted by the Assembly in 2016 were not formally planned. While meetings between the Assembly staff and the GS support co-ordination of the Government's decision-making process, such meetings were not held regularly in 2016. The ratio of laws initiated in 2015 by the Government and approved by the Assembly no later than one year after submission was 71%⁸⁰. As a

⁷⁸ Based on a review of sample cases of laws submitted to the Assembly, and confirmed by interviews conducted in April 2017.

⁷⁹ RoP of the Assembly, Article 138.

⁸⁰ Based on SIGMA analysis.

result no points are awarded for the sub-indicator on timeliness of parliamentary processing of draft laws.

The basis for stronger co-ordination and document sharing between the Assembly and the Government is in place, as the work of the Assembly and its communication with the Government are facilitated by an e-Parliament information system linked to the Government Information System.

The Assembly is assisted by the Parliamentary Institute⁸¹, which aims to provide timely, objective and independent professional analysis to MPs to enhance the quality of policy making and the Legislature's oversight function. In practice, the Assembly has not systematically taken up the Institute's work, and the Institute mostly handles *ad-hoc* requests from individual MPs for data and other information. The Assembly does not use law-implementation reports as a tool to scrutinise the Government's work or review the policy areas on its own initiative.

The draft laws submitted to the Assembly do not feature all the relevant supporting documents, and the planning system for legislative work is not reliable. There is a very high share of extraordinary procedures and a lack of Assembly focus on implementation of laws. As a result of these factors, the value for the indicator 'Parliamentary scrutiny of government policy making' is 1.

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

Sub-indicators	Points
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making	4/5
2. Completeness of supporting documentation of draft laws submitted to the parliament	0/3
3. Co-ordination of governmental and parliamentary decision-making processes	1/2
4. Systematic review of parliamentary bills by the government	0/1
5. Alignment between draft laws planned and submitted by the government (%)	0/2
6. Timeliness of parliamentary processing of draft laws from the government (%)	0/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)	0/5
8. Government participation in parliamentary discussions of draft laws	2/2
9. Basic parliamentary scrutiny of the implementation of policies	0/2
Total⁸²	7/24

The regulatory framework enables parliamentary scrutiny of Government policy making. The expanded use of shortened and urgent procedures does not allow the Assembly and the wider public to scrutinise draft laws prior to adoption. Furthermore, the Government does not systematically provide its opinion on parliamentary bills.

⁸¹ The Parliamentary Institute is a separate organisational unit of the Assembly, whose nearly 20 staff members provide research and archiving services.

⁸² Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-16=3, 17-20=4, 21-24=5.

Key recommendations

Short-term (1-2 years)

- 1) The Assembly should consider setting targets to considerably reduce the share of short or urgent procedures; it should publish these targets and report on progress in meeting them.
- 2) The GS should ensure that the policy content of proposals submitted for Government decisions be more consistently and systematically co-ordinated prior to Government commission sessions involving relevant CoG participants. Ensuring the coherence of policy content with Government priorities and previously adopted strategies should become routine practice, and related capacities should be built and strengthened.
- 3) The GS should make all Government agendas and decisions publicly available in full, except those that include confidential information as defined by the relevant legislation.
- 4) The SL should only scrutinise legislative proposals slated for deliberation in a Government session; the legal departments of the GS should handle other non-regulatory and non-priority items.

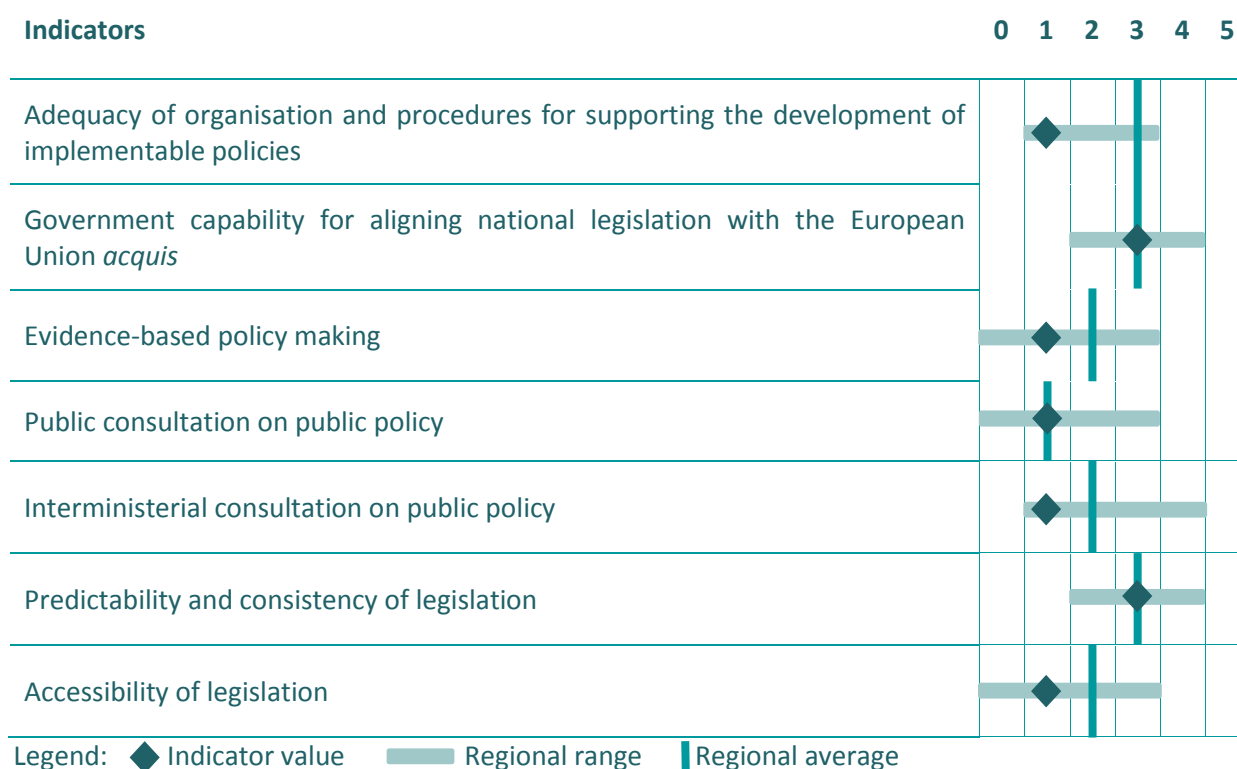
Medium-term (3-5 years)

- 5) The Government should modify the regulation to ensure that the Government provides an opinion on each draft bill initiated by the Parliament.
- 6) The Assembly should initiate a practice of requesting the implementation reviews of key laws from the Government and/or the Parliamentary Institute; it should discuss these reviews at least at the level of the parliamentary committees.

Policy development

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

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



Analysis of Principles

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

The Government RoP stipulate that the ministries' task is to develop policies and draft regulations⁸³. While the legislation defines the division of policy areas among ministries⁸⁴, the mandate to develop regulations is not limited to these ministries. Independent state-administration bodies have the mandate to develop laws and sublegal acts for adoption by the Government⁸⁵. Agencies can also be responsible for developing laws⁸⁶.

While the rulebooks and systematisations on ministries' internal structures define the roles and responsibilities for policy development and legal drafting – which are generally the responsibility of policy departments – a lack of capacities within ministries means that these are not always followed in

⁸³ Rules of Procedure of the Government, Articles 8 and 11.

⁸⁴ Law on Organisation and Operation of State Bodies, Articles 15-28.

⁸⁵ The Law on Organisation and Operation of State Administrative Bodies, Article 12, lists the independent state administration bodies; Article 13 stipulates that these bodies can develop laws and regulations.

⁸⁶ In the GAWP for 2016, the Agency for Commodity Reserves is listed as the "nominator" for the draft Law Amending the Law on Commodity Reserves. This finding is also based on interviews.

practice. Furthermore, the legal departments are not necessarily involved in drafting laws or scrutinising the legal quality of legislative proposals⁸⁷.

The ministries have units dedicated to strategic and work planning that co-ordinate their ministry's input with the Government priorities and the annual planning of activities to implement these priorities. These units play a mostly limited role in prioritising activities and are not involved in assessing the actual quality of policy proposals against the Government's policy goals⁸⁸.

While ministers can delegate tasks to deputy ministers⁸⁹, none of the three ministries analysed have developed detailed rules governing the internal policy-development or legal-drafting processes⁹⁰. While working groups are the main recurrent mechanism through which ministerial departments directly co-ordinate the design of policy proposals, such groups are not established for all legislative initiatives. Hence, the involvement of relevant departments within a line ministry in policy development and lawmaking is not fully guaranteed and the value of the third sub-indicator is zero.

The share of staff dealing with policy development is low in some ministries⁹¹ because large departments dealing with policy enforcement and inspection are part of the internal organisation. Verifying whether ministries focus primarily on policy development is not possible, as the relevant data was not provided by the administration. As a result, the second sub-indicator has a value of zero.

As a consequence of the lack of internal rules for policy making, the low share of policy-development staff in some ministries, and the inconsistent application of internal roles and responsibilities, the value for the indicator 'Adequacy of organisation and procedures for supporting the development of implementable policies' is 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.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for effective policy making	2/4
2. Staffing of policy-development departments (%)	0/2
3. Adequacy of policy-making processes at ministry level in practice	0/6
Total⁹²	2/12

⁸⁷ Findings based on interviews with line ministries.

⁸⁸ Ditto.

⁸⁹ Law on Organisation and Operation of State Administrative Bodies, Article 48.

⁹⁰ Systematisation of the following three Ministries were analysed: the Ministry of Environment and Physical Planning; the Ministry of Labour and Social Policy; and the Ministry of Agriculture, Forestry and Water Management. The Ministries did not have internal rules for policy development. For example, the interviews confirmed the lack of clear internal rules for publishing notifications on proposal developments, initiating a public consultation or submitting a proposal for interministerial consultation.

⁹¹ This finding is based on analysis of staff numbers at the Ministry of Labour and Social Policy and in the Ministry of Agriculture, Forestry and Water Management. For the Ministry of Environment and Physical Planning, only the total number of staff was provided. No staff numbers were submitted for the Ministry of Economy, which affected the sub-indicator value on the staffing levels of ministries since no points are granted when no information is provided.

⁹² Point conversion ranges: 0=0, 1-2=1, 3-5=2, 6-8=3, 9-10=4, 11-12=5.

The regulations allocate the responsibility for policy development among ministries and to the top management level in each ministry. Although ministerial systematisations describe the areas of responsibility for each sector and department, there are no rules or written procedures regulating the policy-development process within ministries.

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

The *acquis*-transposition process is integrated into the Government's overall policy-development process. The annual EU Progress Report serves as one of the inputs for the ministries' annual legislative plans. In addition, at the outset of any regulatory process, the ministries check whether the proposed legislation interacts with the issues mentioned in the Stabilisation and Association Agreement (SAA), or is required by the SAA. EU-related legislative initiatives are marked with the EU flag⁹³.

The SEA is responsible for co-ordinating the everyday process of preparing the country's version of the *acquis*⁹⁴. The regulatory framework establishing the SEA's role in planning, co-ordinating and monitoring the *acquis* alignment process is adequate.

The RoP of the Government establish a single adoption procedure containing uniform requirements for both the policy-development and decision-making processes for transposition cases, which are governed by the same requirements as for national policy proposals. The RoP require the use of a Table of Concordance⁹⁵ which is consistently produced⁹⁶.

EI co-ordination is established at both the political and administrative levels, including through NPAA Working Groups led by the responsible line ministries⁹⁷. The system for addressing conflict resolution during the alignment process is robust, although not fully tested over the past two years, as few cases have been going through the procedures.

The SL performs quality control on the approximation of legislation with the *acquis*⁹⁸, while the SEA is responsible for translating the *acquis*. Since 2015, all ministries must also obtain the opinion of the SEA on proposals involving transposition of EU law before submission to the Government⁹⁹. Translations of the relevant *acquis* were available for the sample reviewed, and therefore the value of the relevant sub-indicator is 2.

The implementation of draft regulations transposing EU directives is low, standing at slightly below 16% in 2016. The percentage of EI-related legislative commitments carried forward from the 2016 NPAA to the 2017 version is high at 50%.

Owing primarily to the substantial backlog and the low implementation rate of EI-related commitments, the value for the indicator 'The government's capability for aligning of national legislation with the European Union *acquis*' is 3.

⁹³ RoP of the Government, Article 73 (1).

⁹⁴ Law on the Government, Article 40-b (2).

⁹⁵ RoP of the Government, Articles 66 and 72.

⁹⁶ Findings based on the analysis of the following five transposition cases: the Law on Organic Production; the Rulebook on Surface Waters; the Rulebook on Export and Import of Waste; the Rulebook on Quality of Water; and the Rulebook on Combatting and Eradicating Avian Influenza.

⁹⁷ The analysis above, pertaining to Principle 2 on the co-ordination of European Affairs, provides further details.

⁹⁸ Law on the Government, Article 40 (2).

⁹⁹ RoP of the Government, Article 68.

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

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

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

Sub-indicators	Points
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process	5/5
2. Use of tables of concordance in the <i>acquis</i> alignment process (%)	2/2
3. Translation of the <i>acquis</i> into the national language	2/2
4. <i>Acquis</i> alignment commitments carried forward (%)	0/4
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)	0/4
Total¹⁰⁰	9/17

The legislative framework establishes rules for transposing the *acquis*. Tables of Concordance are systematically produced, and the *acquis* alignment cases are subject to the same requirements for policy development as domestic policy proposals. The SEA and the LS share responsibility for the quality control of legislative approximation, but the implementation rate of EI commitments is low.

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

The RoP set out the requirements for evidence-based policy development. An impact assessment is obligatory for all proposed new primary legislation. The financial impacts of all proposals submitted to the Government must be assessed¹⁰¹.

The RIA Regulations adopted by the Government¹⁰² state that the RIA process should go hand in hand with the general legislative process and identification of alternative policy options. Comprehensive guidelines are available online¹⁰³. They include guidance on problem analysis, identification and comparison of possible solutions, and several possibilities for consultation with the interested parties through the SNERR. However, the guidelines do not contain country-specific examples, practical tools for assessing costs and benefits, or tools for comparing options.

While the MISA is responsible for performing RIA quality control, it lacks the mandate to perform this task effectively. It can only issue an opinion on the RIA¹⁰⁴ and does not necessarily receive other relevant documents, such as the law for which the RIA was made or the financial-impact assessment¹⁰⁵.

¹⁰⁰ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-17=5.

¹⁰¹ The RoP of the Government, Article 8. Impact assessment is not obligatory for laws proposed for adoption by means of the urgent procedure, laws on ratification of international agreements, laws on conducting terminology harmonisation with other laws, the proposed Budget of the Republic of Macedonia and the Law on the Execution of the Budget of the Republic of Macedonia.

¹⁰² Regulations Governing Regulatory Impact Assessment, MISA, September 2013.

¹⁰³ http://www.mioa.gov.mk/files/pdf/Priracnik_za_primena_na_Metodologijata_mk.pdf;
http://www.mioa.gov.mk/files/pdf/Akti_PVR_1en.pdf.

¹⁰⁴ RoP of the Government, Article 68.

¹⁰⁵ Finding based on interviews with MISA staff members.

The MISA does not have the official right to return RIAs to line ministries and require that they improve the proposal's justification and analysis before the Government tables it for adoption.

Ex-ante assessment of policy proposals' financial implications is mandatory¹⁰⁶; it is supported by a standard form ministries need to fill when presenting a proposal for adoption by the Government. However, no detailed guidance exists on policy costing¹⁰⁷. The MoF is responsible for scrutinising the quality of financial-impact assessments and issuing an opinion on the costing estimates, but it does not assess the efficiency or effectiveness of the expected additional budget demand¹⁰⁸. Formally, the MoF officially fulfils its task of scrutinising the budgetary impacts of legislation prior to approval by the Government, but does not perform the necessary qualitative scrutiny of the figures submitted by line ministries¹⁰⁹.

Although required by regulation, policy costing is not practised consistently: even the MoF itself does not always present a comprehensive cost justification for its proposals¹¹⁰. The financial-assessment form for the draft Law Amending the Law on Banks states that the implementation of the proposed measures has no linked costs. The RIA for this Law is not completed and lists no costs. The Explanatory Memorandum for the proposal does state that the proposed Law would have budgetary implications.

A review of three samples shows that impact assessment is not conducted properly. RIA forms – which must be signed by State Secretaries – are sent to the Government for adoption when they are incomplete and lack basic information: they do not properly define the problems, consider or compare the options, identify the impacts on the State budget, discuss the implementation aspects, or present the monitoring and evaluation arrangements. Moreover, no clear link exists between the RIA and the assessment of the financial impacts from the implementation of laws,¹¹¹ hindering a proper assessment of the legislative proposals' added value. As a result the value of the sub-indicator on quality of analysis in impact assessment is zero.

A MISA analysis of the quality of the RIA process confirmed that RIAs are generally incomplete and lack essential information. Although ministries are required to obtain the opinion of the MISA on their RIAs, this is only done in about one-third of all cases¹¹². The sample draft laws reviewed by SIGMA did not include MISA opinions. As a result the value of the sub-indicator on quality control of impact assessment is zero

In view of the above-detailed features and the significant shortcomings in evidence-based policy making and the costing of policy proposals, the value for the indicator 'Requirements and implementation of evidence-based policy making' is 1.

¹⁰⁶ The RoP of the Government (Article 8) list this as a responsibility of ministers.

¹⁰⁷ This finding is based on interviews and is supported by the fact that no such guidance was submitted for the assessment.

¹⁰⁸ Based on the analysis of the complete packages for the draft Law Amending the Law on Wine; the Law Amending the Law on Internal affairs, and the Law Amending the Law on Water. The findings were also supported by interviews. No new laws were developed in 2016 and the assessment sample had to be adjusted accordingly.

¹⁰⁹ The documents presenting financial implications submitted for this assessment were unsigned text files that were not officially approved. Interviews confirmed that when line ministries do not state that an additional budget is needed, the MoF does not challenge and check these claims.

¹¹⁰ Finding based on the complete packages for the draft Law Amending the Law on Leasing and the draft Law Amending the Law on Banks, both of which were developed by the MoF in 2016. For both cases, the assumed costs listed in the costing form are zero, but no justification is provided.

¹¹¹ This finding is based on interviews and the analysis of three RIAs.

¹¹² The MISA provided an opinion on 76 of the 252 laws adopted in 2016 (30.2% of cases).

Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and broad impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Use of basic analytical tools and techniques to assess the potential impacts of new draft laws	2/2
2. Use of budgetary impact assessment prior to approval of policies	1/3
3. Use of broad Regulatory Impact Assessments	1/3
4. Availability of guidance documents on RIAs	1/2
5. Quality control of RIAs	0/3
6. Quality of analysis in RIAs	0/15
Total¹¹³	5/28

Current regulations require the use of comprehensive tools for evidence-based policy making and costing. A comprehensive methodology for performing RIAs is in place, but the ministries do not adhere to the requirements. The methodology does not include tools for costing the policies or comparing options. The MISA does not have the necessary mandate to ensure that RIAs are sufficiently qualitative, and does not provide an opinion on all relevant cases. Financial-impact assessments are only performed as a formality and policy costing is practically non-existent.

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.

Regulations govern both public and interministerial consultation. State-administration bodies are obligated to consult citizens and obtain opinions from interested citizens' associations and other legal entities¹¹⁴. In addition, ministries must present materials for review by the responsible, relevant and interested State-administration bodies prior to submitting them to the Government. The regulations require the proposing institutions to publish their draft proposals on the SNERR as an obligatory consultation tool¹¹⁵.

Guidelines supporting the regulations for public consultation are available online¹¹⁶. They envisage prior notification of concerned parties at the inception of the policy-development process¹¹⁷. They also stipulate the period during which proposals must be opened to written online public consultation¹¹⁸,

¹¹³ Point conversion ranges: 0-2=0, 3-7=1, 8-12=2, 13-18=3, 19-23=4, 24-28=5.

¹¹⁴ Law on Organisation and Operation of State Administrative Bodies, Article 10.

¹¹⁵ RoP of the Government, Article 68.

¹¹⁶ http://www.mioa.gov.mk/files/pdf/kodeks_mk.pdf;
http://www.mioa.gov.mk/files/pdf/Priracnik%20za%20zasegnati%20strani_3.pdf.

¹¹⁷ Guidelines on Ministerial Procedures in the Process of Application of the Regulatory Impact Assessment, Articles 6, 7, 9 and 17 and Chapter 4, Articles 21-25; Manual for Stakeholder Consultation in the Process of Creating Policies, Chapter 3.

¹¹⁸ The Guidelines allow a minimum of ten days from a proposal's publication date on the SNERR for the public to submit opinions on the drafts; a notification must be published at least five days before the proposal's publication.

after which ministries must include an overview of the opinions received in the related RIA report. The ministries must also explain why they did not accept comments and proposals, and publish the consultation report on the SNERR¹¹⁹. The e-Session system, introduced in December 2014, does not allow drafts submitted under the normal procedure to proceed in the decision-making process without prior publication on the SNERR. When a proposed law is subjected to the urgent procedure, the requirements for conducting an RIA and a public consultation do not apply.

No organisation is responsible for controlling the quality of the public-consultation process by assessing both its adherence to the consultation requirements and the consultation outcomes. This shows that the GS also allows proposals for adoption by the Government when the basic public consultation requirements have not been met. The MISA limits its assessment to analysing and producing an annual report on the procedural aspects of implementing the RIA.

An analysis of the full packages provided for three legislative proposals shows that the responsible institutions did not follow the legal framework for public consultation¹²⁰ and regularly ignored RoP requirements. The RIAs performed lacked even basic references to the public-consultation process; they did not provide comprehensive reports of stakeholder comments during public consultations, or indicate whether – and how – these were taken into account. Interviews with the representatives of non-governmental organisations (NGOs) confirmed that feedback on comments is not provided after public consultations and that contrary to the regulations, consultation reports are not published.

An analysis performed by the MISA showed that line ministries made very little use of the SNERR in 2016: 8 of the 15 ministries did not use the platform at all, indicating that ministries do not regularly publish their draft laws online¹²¹.

The RoP regulate interministerial consultation¹²², but do not stipulate their minimum duration. Ministries are required to consult Government and other relevant public organisations when a proposal touches upon an issue under their responsibility. For example, the MoF must be consulted on financial impacts, the LS on legal quality, the SEA on EU *acquis* transposition and the MISA on RIA quality. Ministries are not required to present an overview of the comments received during interministerial consultations or to explain how the comments were taken forward.

In the event of interministerial conflicts, the GS co-ordinates conflict resolution among the involved institutions. The General Collegium of State Secretaries, which is organisationally supported by the SG, is the final administrative mechanism for solving possible conflicts before they reach the political level (i.e. ministers at committee sessions and Government sessions)¹²³.

The rules for interministerial consultation are not routinely followed. Of the five cases (laws and draft laws) analysed¹²⁴, one lacked the opinion of the LS, and the three available RIAs also lacked MISA opinions. Only one case provided an opinion from an organisation other than the MoF or LS. The MoF was the only institution that systematically provided an opinion, except for proposals it had developed itself.

The shortcomings of the interministerial consultation process were confirmed during interviews. The GS regularly shares proposals with the relevant line ministries after they have been submitted to the

¹¹⁹ RoP of the Government, Article 68a (5).

¹²⁰ Based on the analysis of the complete packages for the draft Law Amending the Law on Wine; the draft Law Amending the Law on Leasing; and the draft Law Amending the Law on Banks.

¹²¹ The Ministry of Agriculture, Forestry and Water Management published 26.4% of its laws on the SNERR; the Ministry of Economy, the Ministry of Environment and Spatial Planning, and the Ministry of Labour and Social Policy did not publish their laws on the SNERR.

¹²² RoP of the Government, Article 68.

¹²³ *Idem*, Article 70.

¹²⁴ Based on an analysis of the complete packages for the draft Law Amending the Law on Wine, the draft Law Amending the Law on Leasing; the draft Law Amending the Law on Banks; the Law Amending the Law on Internal Affairs; and the Law Amending the Law on Water.

Government for adoption, even though the GS could also return the file to the responsible line ministry if the necessary consultations were not done¹²⁵.

The rules for public consultation are not followed in practice, and there is no central quality scrutiny of public consultation. Hence, the value for the indicator 'Public consultation on public policy' is 1.

The regulations do not set minimum durations for interministerial consultation, and the rules for interministerial consultation are only partially followed. Moreover, overviews of the comments received during the consultation process are not produced. Hence, the value for the indicator 'Interministerial consultation on public policy' is 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 drafts laws.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective public consultation process	9/10
2. Quality assurance of the public consultation process	0/3
3. Regularity in publishing draft laws for written public consultation	0/4
4. Test of public consultation practices	0/24
Total¹²⁶	9/41

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

Sub-indicators	Points
1. Adequacy of the regulatory framework for an effective inter-ministerial consultation process	5/9
2. Test of interministerial consultation practices	0/12
Total¹²⁷	5/21

While the regulations stipulating clear procedures for public consultation are in place, the requirements are not followed in practice. Systematic quality control of public consultation is not performed. Cross-government co-ordination is governed by regulations requiring consultation with

¹²⁵ RoP of the Government, Article 75c.

¹²⁶ Point conversion ranges: 0-6=0, 7-13=1, 14-20, 21-27=3, 28-34=4, 35-41=5.

¹²⁷ Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-18=4, 19-21=5.

all levels and bodies, but the regulations are only partially followed. No minimum durations are set for interministerial consultations, and the ministries are not required to develop overviews of comments received during the consultation process.

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

The *Rulebook on Nomotechnical Rules* (2007)¹²⁸ and the *Handbook on Transposition of the Acquis Communautaire into the Legislation of the Country* (2010) provide guidance on drafting formalities. These guidelines are comprehensive, and help drafters develop primary and secondary legislation.

The SL is the Government body responsible for ensuring the coherence and quality of legal drafting: all primary and secondary legislative proposals must be submitted to the opinion of the SL before they can be presented to the Government for adoption¹²⁹. However, this requirement is not followed in practice: one of the five analysed law proposals did not contain the obligatory LS opinion¹³⁰.

The LS provided an official opinion on 4 692 items in 2016¹³¹. This represents a considerable workload, which does not correspond with existing staff numbers; 203 of these items were draft laws or amendments to existing laws, indicating that the LS does not provide an opinion on all relevant files, as the Government approved 284 draft laws or amendments to existing laws in 2016¹³².

The Secretary of the LS has the right to request that proposals be withdrawn from the Government agenda in the event that adopting different legal and systemic solutions becomes necessary¹³³. In 2016, the LS and the SEA organised extensive training on transposing the *acquis* into national legislation¹³⁴.

The Assembly does not present information on the frequency of the changes made to laws. However, SIGMA analysis of the Assembly's 2015 and 2016 annual reports showed that in 2016, 1 of the 35 new laws adopted in 2015 was cancelled, and 15 were amended in one year after their adoption. As a result the respective sub-indicator has a value of zero.

According to the 2017 Balkan Barometer survey, 54% of the responding businesses tended to agree or agreed strongly that the State administration's interpretations of the laws and regulations affecting their companies were clear and stable¹³⁵.

All primary and secondary legislation is available electronically on the Official Gazette¹³⁶. However, the public does not have full access, as legislation adopted during the current year is only available for a fee; only the previous years' legislation is available free of charge.

The rules for publishing legislation are set in law¹³⁷, but are incomplete: they do not define the procedures and deadlines for publication, or the responsibilities of the bodies submitting the adopted legislation for publication.

¹²⁸ http://www.sz.gov.mk/application/themes/priracnik_nom/index.html#p=1.

¹²⁹ The RoP of the Government, Articles 68 (1) and 69.

¹³⁰ Based on the analysis of the complete packages for the draft Law Amending the Law on Wine; the draft Law Amending the Law on Leasing; the draft Law Amending the Law on Banks; the Law Amending the Law on Internal Affairs; and the Law Amending the Law on Water. The package for the draft Law Amending the Law on Wine did not contain the obligatory opinion from the LS.

¹³¹ Information based on data submitted by the LS for the assessment.

¹³² Information provided by the MISA in its 2016 report on RIA and compliance with use of the SNERR.

¹³³ RoP of the Government, Article 94-c.

¹³⁴ This finding is based on interviews and the training programme under the EU Twinning Project "Further Strengthening of the Organisational and Institutional Capacities in the Process of European Integration", Part 1, Output 2: "Strengthening capacities in the process of harmonisation of the national with the European legislation, prepared amendments to the *Manual on the transposition of EU legislation with legislation of the Republic of Macedonia*".

¹³⁵ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/3/balkan-business-barometer>

¹³⁶ <http://www.svesnik.com.mk/>.

¹³⁷ Law on Publishing of Laws, Other Regulations and Enactments, Official Gazette No. 56/99, 43/02.

In addition to the Official Gazette, legislation is also published on the SNERR, as well in the regulation database maintained by the Ministry of Justice¹³⁸, on individual ministries' websites and by some NGOs. These publications are not legally binding (only the Official Gazette publishes the officially applicable legislation), but this proliferation of laws on various websites may explain why 60% of the country's businesses believe that laws and regulations are widely available to the public¹³⁹.

Some ministries also publish unofficial consolidated versions of laws, which are available to the public. The Official Gazette also occasionally consolidates laws, but these consolidated versions have no official status. Only the Legislative Committee of the Parliament can develop official consolidated versions of legal texts, but this is not a standard process¹⁴⁰.

The regulations define the legal requirements and provide guidance on legal drafting. However, nearly half of the new laws were amended one year after their adoption. Hence, the value for the indicator 'Predictability and consistency of legislation' is 3.

Not all legislation is available to the public for free. Consolidated versions of primary and secondary legislation are not systematically available to the public, and the rules do not fully define the requirements for publishing legislation. Therefore, the value for the indicator 'Accessibility of legislation' is 1.

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

Sub-indicators	Points
1. Availability of guidance documents on legal drafting	2/2
2. Quality assurance on legal drafting	3/3
3. Laws amended one year after adoption (%)	0/3
4. Perceived clarity and stability of government policy making by businesses (%)	1/2
Total¹⁴¹	6/10

¹³⁸ <http://www.justice.gov.mk/LDBISReader>.

¹³⁹ In the 2017 Balkan Barometer survey, 60% of respondents (the highest rate in the region) agreed with the statement "Information on the laws and regulations affecting my company is easy to obtain from the authorities".

¹⁴⁰ Finding confirmed during interviews of Assembly staff and NGOs.

¹⁴¹ Point conversion ranges: 0=0, 1-2=1, 3-4=2, 5-6=3, 7-8=4, 9-10=5.

Accessibility of legislation

This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.

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

Sub-indicators	Points
1. Adequacy of the regulatory framework for public accessibility of legislation	2/6
2. Accessibility of primary and secondary legislation in practice	0/8
3. Perceived availability of laws and regulations affecting businesses (%)	1/2
Total¹⁴²	3/16

Processes and guidance are in place for the coherence and quality of legislation. Legal quality control is embedded in the policy-development process, but is not consistently applied. Extensive training on legislative drafting has been organised. Both primary and secondary legislation are available electronically, but not all the legislation in force is publicly available free of charge. Official consolidated versions of legal texts are developed by the Legislative Committee of the Parliament only if explicitly foreseen by a legislative amendment.

Key recommendations

Short-term (1-2 years)

- 1) The ministries should develop internal rules stipulating the steps, roles and responsibilities in the policy-development and legislative processes.
- 2) The GS should fulfil its role of ensuring that all provisions relative to the development of legislative proposals (i.e. preparing RIAs and conducting interministerial and public consultations) are consistently followed.
- 3) The CoG should rigorously enforce the requirements for conducting RIAs, public consultations and interministerial consultations. The Financial Impact Assessment – which is overseen by the MoF – and the RIA process – which is controlled by the MISA – should be linked.
- 4) The MoF, in co-operation with the MISA and the GS, should develop detailed guidance for costing key policy documents, such as draft laws and sector strategies.
- 5) All legislation should be made available free of charge to the public through the Official Gazette website.

Medium-term (3-5 years)

- 6) The Government should adjust the mandate of the MISA so that the Ministry has the right to return insufficiently qualitative RIAs to the originating body.
- 7) The Assembly and the Government should look for a legal and practical solution to ensure that regular preparation of official consolidated versions of at least all primary legislation; they should provide access to these versions free of charge through a single source.

¹⁴² Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.



PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

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

1.1. State of play

The new Law on Public Sector Employees¹⁴³ (LPSE), adopted in February 2014 (in force from 13 February 2015), stipulates the main principles applicable to all forms of public employment. The legislation significantly reduces the traditional fragmentation of public employment, and the horizontal scope of the public service is reasonable. But the Law continues to fully exclude the Ministry of Interior (Mol), including its civilian staff, leaving in place a privileged system. Some other institutions, regulated by the Law on Administrative Servants (LAS)¹⁴⁴, adopted in February 2014 (in force from 13 February 2015), are also partially excluded from the scope of the civil service.

The risk of using public employment as a political instrument (mainly to influence voting) persists. This situation is evidenced by the legal prohibition of recruitments during electoral periods and by the recommendation of the State Commission for the Prevention of Corruption (SCPC) that certain human resources (HR)-related decisions (creating risks of influencing voting) should be suspended during electoral periods.

Both the Ministry of Information Society and Administration (MISA) and the Agency of Administration (AA) approach the co-ordination of the civil service and public employment systems in a relatively passive way. They deliver weak and non-co-ordinated support to the HR units. The lack of accountability of the AA to the Government weakens MISA's capacities for central co-ordination and steering of the civil-service system. Moreover, the ongoing political crisis has hindered the preparation of plans and strategies, and active implementation of the new legislation.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement¹⁴⁵ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

No major developments are to be reported during the assessment period. As a result of the prolonged pre-electoral period, HR processes were "frozen" in 2016, spurred by the SCPC recommendation to suspend all decisions that might interfere with the electoral process. Thus, the MISA and the AA were forced into inaction owing to the electoral situation. The AA recruited only a few "administrative servants"¹⁴⁶ (and only in local administrations) in the first months of 2016, and as 2015 had been a trial period for implementing the LAS and the LPSE, which entered into force in February, very few recruitments of civil servants took place in 2015-16.

¹⁴³ Law on Public Sector Employees, Official Gazette No. 27/2014.

¹⁴⁴ Law on Administrative Servants, Official Gazette No. 27/2014.

¹⁴⁵ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 40, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf.

¹⁴⁶ "Administrative servants" refers to civil servants, as regulated by the LAS.

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

The major development was the effective entry into force of the LAS and the LPSE¹⁴⁷. Both Laws have been amended, albeit mainly on technical issues. Only two amendments are to be noted. First, the Constitutional Court annulled an article of the LAS setting a future obligation for current civil servants to speak a foreign language¹⁴⁸. Second, the LPSE introduced additional details about the annual employment plans and their approval requirements, as well as procedures to choose among merit-selected candidates according to the equitable-representation objectives set in the annual employment plan.

After the approval by the Secretariat for Implementation of the Ohrid Framework Agreement (SIOFA), the MISA adopted the Methodology on employment planning in 2016¹⁴⁹. The Methodology's annual employment plans are intended to ensure equitable representation of all communities.

Unfortunately, the full implementation of the new legal framework did not occur during the assessment period. Formal implementation has been completed, with the primary and secondary legislation in force; the amendments of sector laws to match the LPSE are also in force. However, the complete or partial freeze on new recruitments, performance appraisals, disciplinary procedures and other HR decisions has hindered putting into practice many of the new key regulations featured in the LAS and the LPSE.

The AA continues to handle both recruitments and appeals from candidates. However, a positive development is that the new legislation adequately distinguishes between the unit dealing with the selection processes and the unit considering the appeals.

Another positive development is that the MISA now fulfils some of the missions and responsibilities formerly assigned to the AA, e.g. validating the job-systematisation acts and the staffing plans. Unfortunately, the MISA has not benefited from any staff transfer to help it fulfil these new responsibilities.

In the 2015 Baseline Measurement Report¹⁵⁰, SIGMA recommended that the MISA "... support and supervise the HR capacities of all administrative bodies included in the new public service scope and strengthen them through guidelines, regular networking and training programmes". No progress can be reported in this area. The MISA did not provide any special support to the HR units for implementing the new systems foreseen in the legislation. The difficult political circumstances did not contribute to an adequate environment, which could partially explain this lack of action.

¹⁴⁷ In February 2015.

¹⁴⁸ Constitutional Court decision, 26 June 2016.

¹⁴⁹ Methodology on employment planning in the public sector in accordance with the principle of adequate and equitable representation, MISA 2015.

¹⁵⁰ OECD (2015), [Baseline Measurement Report: The former Yugoslav Republic of Macedonia](#), OECD Publishing, Paris.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports¹⁵¹

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

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

The SCPC issued a recommendation in 2016, reiterated in February 2017, to freeze recruitments, appraisals, dismissals and some disciplinary procedures (offences that could end in dismissal), to avoid eventual interferences with the electoral process. All public institutions have followed this recommendation.

The MISA concentrated efforts on the new Human Resource Management Information System (HRMIS) and invested in new developments, such as a payroll module, which is a strong improvement in terms of future access to data on the public-sector workforce. Although institutions have been progressively inputting data, the HRMIS is still not fully operational. In March 2017, for the second consecutive year, the MISA published an Annual Report on Public Employment. This last Annual Report is only partially based on the HRMIS, and does not contain relevant analysis and conclusions.

Top civil servants (i.e. state secretaries and other secretaries) continue to be discretionally appointed and dismissed by ministers. But, under the new legislation, from now on they must be mandatorily chosen from among existing career civil servants in Group B (head administrative servants)¹⁵², ensuring at least an initial merit selection to join the administration.

Performance appraisals have been only partially implemented, without positive or negative consequences (e.g. no bonuses paid and no dismissals stemming from negative evaluations). Disciplinary procedures, promotions and mobility were also limited to a minimum. This lack of activity resulting from the pre-electoral “HR freeze” has in fact created a lack of data to inform many of the indicators required for this assessment.

In addition, little attention was paid to training during the assessment year. Only 131 hours of face-to-face training were delivered by the MISA in 2016, benefiting 334 administrative servants. The MISA also developed some e-learning tools covering generic competences. In the 2015 Baseline Measurement Report, SIGMA had formulated a clear short-term recommendation to the MISA to “ensure that it has adequate resources to meet its responsibilities for the professional training and development of public servants”; this recommendation has not been followed.

The MISA staff working on civil service and public employment issues has not increased. However, the MISA did establish the main regulations and amendments derived from the implementation of the

¹⁵¹ OECD (2015), *Baseline Measurement Report: the former Yugoslav Republic of Macedonia*, OECD Publishing, Paris, [Baseline Measurement Report: The former Yugoslav Republic of Macedonia](#).

¹⁵² The LAS classifies all civil-servant positions (called administrative servants) in four groups: Group A, secretaries; Group B, head administrative servants; Group C, expert administrative servants; and Group D, assisting expert administrative servants. Each group is divided into four or five levels. Only levels D4 and C4 are entrance/recruitment levels.

LPSE and the LAS.

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

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the recruitment of public servants is based on the merit principle in all its phases.	3	3
	Extent to which the termination of employment of public servants is based on merit.	3	3
	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2	1
	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	3	4
	Extent to which the training system of public servants is in place and applied in practice.	4	2
	Extent to which the performance appraisal system of public servants is in place and applied in practice.	3	3
	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	3	3
	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	3	3
Quantitative	Annual turnover of civil servants at the level of central administration.	Not available ¹⁵³	3.08% ¹⁵⁴
	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	83.3%	Not available ¹⁵⁵
	Percentage of women in senior managerial positions in the civil service at the level of central administration.	37.9%	53.8% ¹⁵⁶
	Annual turnover of senior managerial civil servants at the level of central administration.	Not available ¹⁵⁷	1.09% ¹⁵⁸

¹⁵³ Data not provided.

¹⁵⁴ 380 civil servants out of 12 335.

¹⁵⁵ Data not provided.

¹⁵⁶ Among state secretaries and heads of sector.

¹⁵⁷ Data not provided.

¹⁵⁸ During the assessment year 3 senior civil servants (state secretaries or heads of sector) left their positions: 3 out of 275 = 1.09%.

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	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	86.7%	0% ¹⁵⁹
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¹⁵⁹

State secretaries and heads of agencies are appointed without open competition. In 2016 only four vacant positions of heads of unit were open to competition, but in all cases competitions were restricted to internal candidates.

2. ANALYSIS

This analysis covers seven Principles for the public service and human resource management area grouped under two key requirements. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators¹⁶⁰, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

Policy, legal and institutional frameworks for public service

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

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



Analysis of Principles

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

A new legal framework for the civil service and overall public employment entered into force in February 2015. The MISA has focused on the practical implementation of LAS¹⁶¹ and LPSE¹⁶² provisions for the last two years, but has been hampered by the political stalemate during the entire period. A handful of amendments were made to the LAS in 2016, mostly concerning technical issues.

The LAS broadly defines the horizontal scope of the civil service, taking into consideration the list of state administrative bodies presented in the Law on Organisation and Operation of the State Administrative Bodies¹⁶³.

The main issue regarding the horizontal scope is that some institutions have been excluded from the LAS. For example, 700 MoI staff who were previously regarded as administrative servants (out of a total 20 000 employees) are now considered “authorised officers in the area of security, defence and intelligence”. This implies that they are no longer administrative servants, but officers regulated by the Law on Internal Affairs¹⁶⁴ and the Law on Police¹⁶⁵. To some extent, this is also true for the Customs Administration, in which some administrative employees are now considered customs officers.

¹⁶⁰ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

¹⁶¹ Official Gazette No. 27/2014.

¹⁶² Ditto.

¹⁶³ Law on Organisation and Operation of the State Administrative Bodies, Official Gazette No. 58/2000, last amended by Law. No. 51/2011.

¹⁶⁴ Law on Internal Affairs, Official Gazette No. 42/2014.

Concerning the vertical scope of the public service, the highest officials under a minister – state secretaries, general secretaries and other secretaries – are considered Group A civil servants. Secretaries are discretionally selected by ministers among Group B civil servants within the same institution. Group B civil servants are recruited through open and merit-based competition.

The LPSE and the LAS limit the number of special (political) advisers working as cabinet officers. These positions can be filled by either civil servants or external employees who do not gain tenure in the civil service. Civil servants may apply for these positions through a mobility procedure¹⁶⁶ they keep their civil servant status while working as political advisers in a cabinet. Legislation does not specifically exclude cabinet officers from participating in promotion procedures or the performance-appraisal system.

The material scope of the civil service legislation is adequate, as the LAS regulates its key features. Since the approval of the new Laws, few technical amendments have been introduced and the Constitutional Court annulled an article intended to oblige current civil servants to speak a foreign language¹⁶⁷. The primary and secondary legislation are coherent, but not always perfectly balanced. The LAS specifies several HR processes in a detailed way, while in certain cases the secondary legislation only provides a few additional procedural regulations (mainly concerning recruitment, performance appraisals and disciplinary procedures).

The overall value for the indicator 'Adequacy of the scope of public service' is 4.

¹⁶⁵ Law on Police, Official Gazette No. 114/2006.

¹⁶⁶ LAS, Article 28, paragraph 2.

¹⁶⁷ Constitutional Court decision, 26 June 2016.

Adequacy of the scope of public service

This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service¹⁶⁸, and whether it is consistently applied across the public sector.

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

Sub-indicators	Points
1. Clarity in the legislative framework of the scope of the civil service	2/2
2. Adequacy of the horizontal scope of the public service	5/6
3. Comprehensiveness of the material scope of civil service legislation	2/2
3. Exclusion of politically-appointed positions from the scope of the civil service	0/2
4. Clarity of the lower division line of the civil service	1/1
Total¹⁶⁹	10/13

The scope of the civil service is adequate and all relevant aspects of employment in the civil service are regulated by the LAS or the LPSE. However, some institutions have been wrongly excluded and benefit from different human resource management (HRM) conditions. The ministries' top managers (secretaries) are politically appointed, but from civil servants previously recruited on merit. Political advisers appointed from outside the administration do not gain civil service tenure and ancillary workers are excluded from the civil service.

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

The main political responsibility for the public service is clearly assigned to the MISA. However, the Ministry does not have direct command over all HRM instruments: the AA, the recruitment authority for civil servants, does not answer to the MISA, but to the Parliament¹⁷⁰. This weakens the Ministry's capacities, since it is not able to set objectives related to recruitment and selection.

In 2016, the MISA based its strategy on three documents: the MISA Work Programme 2016, the MISA Strategic Plan 2016-2018 and the Plan of Governmental activities (in draft version, not adopted until June 2017 when the new government was in office). The quality of these documents is limited: the objectives do not rely on a diagnosis, do not set clear timeframes, do not assign responsibilities and do not contain budget estimations. During the assessment period, no monitoring report on the implementation of the public service policies has been provided.

¹⁶⁸ In OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, p. 40, <http://sigmaweb.org/publications/Principles-of-Public-Administration-Edition-2017-ENG.pdf>, SIGMA clarifies that it applies the narrow scope of public service, covering: 1) ministries and administrative bodies reporting directly to the government, prime minister or ministers (i.e. the civil service, strictly speaking); administrations of the parliament, the president and the prime minister; 2) other administrative bodies at the level of the central administration, if they are responsible for safeguarding the general interests of the state or other public bodies; and 3) independent constitutional bodies reporting directly to the parliament. The scope of public service thus does not cover institutions at the level of sub-national administration and special types of public service, elected and politically appointed officials, or support and ancillary personnel in the administrative bodies.

¹⁶⁹ Point conversion ranges: 0-3=0, 5-5=1, 6-7=2, 8-9=3, 10-11=4, 12-13=5.

¹⁷⁰ The Director of the AA is appointed and dismissed by the Assembly upon proposal by the Government. Appointment is for a six-year term.

While the MISA is indeed the central HRM-co-ordination body for the overall public sector (120 000 employees), it suffers from limited capacities in the HR area. Out of a total of 205 MISA employees, only 25 or 30 work on HRM issues, legislative aspects and support and monitoring of HR units¹⁷¹. Some tasks formerly developed by the AA have been transferred to the MISA¹⁷² without it gaining new staff members.

Except in well-established ministries and agencies, which already had HR units, most HRM units in civil-service bodies were recently created, following the LAS adoption. HRM units are usually small (two or three staff members), sometimes understaffed and quite isolated. The MISA does not organise regular meetings of HR professionals and provided little support in 2016 on implementing the new HR processes; an informal network of HR professionals exists¹⁷³, but does not meet regularly. This weak relationship between the MISA and the HR units is particularly problematic in a system fairly decentralised.

The scope of the HRMIS system is aligned with the scope of the LPSE. The MISA has invested a lot of time and resources in the HRMIS system over the last two years. Since 2015, all public institutions are required to input their staff data into the HRMIS. In March 2017, of 120 000 employees there was complete information about 55 450 and limited information about the rest¹⁷⁴. Of the 1 200 public institutions, 300 had not started using the HRMIS yet. In June 2017, 15 institutions including the MoF were piloting the payroll module to pay its employees.

While for most institutions the job-systematisation acts are also included in the HRMIS, the data about the position occupied by each employee is not uploaded yet¹⁷⁵. Thus, while the HRMIS system is a potentially powerful tool, it does not act as the main source of data on the public service. Even though the HRMIS features a business intelligence module, it does not yet produce usable global statistics; for instance, the 2016 MISA Annual Report on Public Employment is only partially based on information from the HRMIS.

The overall value for the indicator 'Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service' is 2.

¹⁷¹ There are also small teams working on communication, trainings and the HRMIS.

¹⁷² Those tasks transferred to the MISA are as follows: to prescribe the content and manner of preparing the acts for the internal organisation and systematisation of administrative servants' job positions; to give its consent for the acts related to job-position systematisation in the institutions; to ensure compliance of the job descriptions of administrative servants with the LAS and the catalogue of job positions in the public sector, etc.

¹⁷³ The MISA was revising the network list, which includes 160 persons.

¹⁷⁴ E.g. level of education and date and place of birth, but no data on appraisal results, trainings and disciplinary sanctions.

¹⁷⁵ Even for MISA employees, the link is not yet active in the system.

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

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

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

Sub-indicators	Points
1. Establishment of political responsibility for the civil service in the legal framework	2/2
2. Quality of public service policy document	2,5/4
3. Implementation and monitoring of public service policy	0/4 ¹⁷⁶
4. Right balance between primary and secondary legislation	2/2
5. Existence of a central, capable co-ordination body	1,5/4
6. Professionalism of HRM units in civil service bodies	0/2
7. Existence of a functional HR database with data on the civil service	2/4
8. Availability and use of data on the civil service	2/5
Total¹⁷⁷	12/27

The LPSE provides key common principles for all public employment. Although the new legislation (LPSE and LAS) reinforces the MISA, it still has weak policy capacities. The main remaining problems are: i) the AA is not responsible to the Ministry, ii) there is insufficient MISA staff devoted to HR, and iii) the MISA does not proactively support the decentralised HR units. The HRM system is highly decentralised and managed by a large number of small public institutions.

Key recommendations

Short-term (1-2 years)

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

Medium-term (3-5 years)

- 3) The MISA should make the most of HRMIS data to provide evidence for better HR policies and decisions, and should attempt to use HR strategic planning methods.
- 4) The MISA should conduct a mid-term comprehensive assessment of the implementation of the new public service legislation and improve the legislation, institutional set-up and implementation practices accordingly.

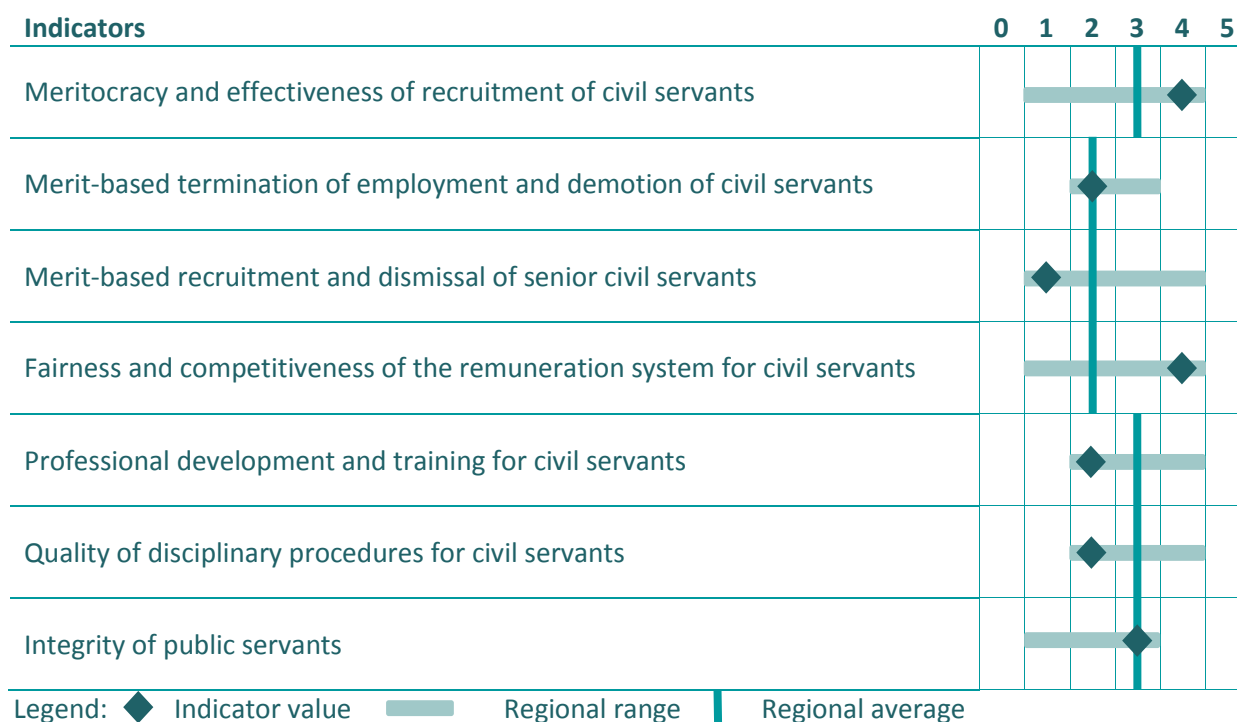
¹⁷⁶ No data provided.

¹⁷⁷ Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-23=4, 24-27=5.

Human resource management

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

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



Analysis of Principles

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

The new recruitment process described in the LAS and in the secondary legislation ensures equal, merit-based treatment of all candidates. Annual staffing plans must be approved by the MISA, the MoF and the SIOFA. The various institutions' job-systematisation acts – wherein every job position must be described following a predefined model, weighted in accordance with the required tasks and required competences, and matched to one of the various levels or categories – must also be agreed by the MISA before approval of the annual staffing plan.

In accordance with the Constitution, public bodies are required to ensure equitable representation of the different communities. This is done by calculating recruitment quotas to compensate specific imbalances in each institution. These quotas should be applied to the merit-based ranking of successful candidates, with shortlisted candidates classified in different lists according to their community. Depending on its community quotas, the recruiting institution should then hire the first candidate from the corresponding list to fulfil the requirement. The public bodies are supported in their calculations by the so-called *BalancER* application provided by the MISA. The community quotas are included in the annual staffing plan, which needs to receive SIOFA approval. Positive discrimination for individuals with

specials needs is possible, if specifically determined as an additional condition for filling a job position¹⁷⁸.

For each vacancy, the Director of the AA designates a selection commission comprising a president (who should be a civil servant from the Agency), the head of the HR unit of the recruiting institution, the head of the organisational unit in which the vacancies are to be filled, and one representative from the SIOFA. Candidates who have not been selected can appeal the selection decision to the Committee Deciding in Second-Instance Complaints and Appeals of Administrative Servants (the Committee) within the AA¹⁷⁹ and, after that, to the competent court.

Assessing the recruitment practices for civil service positions in 2016 has been difficult, since the ministries did not undertake a single recruitment because of the pre-electoral situation. Only 4 recruitments were completed in 2016, and the AA provided SIGMA with the four files: two from the central administration¹⁸⁰ and two from local administrations¹⁸¹. As the assessment of sub-indicator 2 is based only on these four files, its value should be taken with caution. In all four cases, LAS provisions on the recruitment of civil servants were well implemented; the steps foreseen in the procedures were respected; and the highest-ranked candidate was appointed to the position¹⁸². The length of the recruitment process ranged from one to four months¹⁸³.

The major issue is the obvious lack of eligible candidates. There were only 190 applicants – considerably fewer than during previous recruitment processes – for the 42 recruitments organised at the central administration in 2016. Only 36 were considered eligible (i.e. less than 1 eligible candidate per vacancy) and only 4 were appointed, filling less than 10% of the initial vacancies. The main reason for this result seems to be the new foreign-language requirements for candidates set by the LAS. In the four aforementioned recruitment processes, the Agency excluded candidates because they did not provide proof of proficiency in a foreign language and/or certification in computer skills.

The new requirements related to language and computer skills were a conscious choice by the MISA when drafting the LAS: the goal was to recruit better-qualified professionals in the civil service thanks to higher entrance requirements. In most cases, however, these requirements are not work-related: for example, candidates for a Group D civil servant position (i.e. doing clerical work, e.g. in the Cadastre Agency or at a kindergarten) must prove their knowledge of English, French or German by means of an international certificate. These costly certificates are a burden for candidates, could lead to unfair discrimination, and have already resulted in a sharp reduction of candidates¹⁸⁴.

One of the requirements for accessing any civil service position is to be “in good health”¹⁸⁵. As the primary or secondary legislation does not explicitly describe the concept or proof of general good health, this requirement could result in unfair discrimination.

The retention rate of newly appointed civil servants is unknown, due to the lack of data for 2015. However, the interviews indicate widespread high retention rates.

The overall value for the indicator ‘Meritocracy and effectiveness of recruitment of civil servants’ is 4.

¹⁷⁸ LAS No. 27/2014, Article 31, paragraph 3.

¹⁷⁹ The Committee comprises a president and four members, all civil servants from the AA who may not participate in any selection commission.

¹⁸⁰ Advisor for Administrative Affairs for the State Market Inspectorate, and Advisor for Information Technologies and Support in the Public Procurement Council.

¹⁸¹ Independent officer: Treasurer for the Public Enterprise for Communal Services in Krushevo, and Associate for Environment for the Municipality of Radovich.

¹⁸² It should be noted that in all four cases, only one eligible candidate actually participated in the last step of the procedure, i.e. the structured interview.

¹⁸³ Some processes were longer than usual due to the electoral period.

¹⁸⁴ No amendments to the Law were presented before 30 June 2017.

¹⁸⁵ LAS No. 27/2014, Article 31, paragraph 1.

Meritocracy and effectiveness of recruitment of civil servants

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

This indicator measures only external recruitment. The indicator on merit-based recruitment and dismissal of senior civil servants covers recruitment and promotion to senior managerial positions, and the indicator on professional development covers promotions to other positions.

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

Sub-indicators	Points
Legal framework and organisation of recruitment	
1. Adequacy of the legislative framework for merit-based recruitment for civil service positions	16/18
2. Application in practice of recruitment procedures for civil service positions	14/18
Performance of recruitment practices	
3. Time required to hire a civil servant	2/2
4. Average number of eligible candidates per vacancy	0/4
5. Effectiveness of recruitment for civil service positions	0/4
6. Retention rate of newly hired civil servants (%)	4/4
Total¹⁸⁶	36/50

Dismissals of civil servants and other public employees are regulated by the LPSE and present certain weaknesses. Compared to European Union (EU) countries, dismissals based on negative performance are possible after an overly short period, i.e. a single appraisal cycle (one year). The evaluator should at least offer the civil servant a procedure for improving performance (including through training opportunities) during the mandatory semi-annual appraisal.

Dismissals are also possible as a result of restructuring. While restructuring is necessary to cope with inefficiencies created by overstaffing, it could be used to cover unfair dismissals. The regulation¹⁸⁷ stipulates that institutions facing restructuring or downsizing should prepare a list of employees whose positions are being suppressed. These employees must be reallocated to other jobs at the same level within the same institution or to another public body. Employees who do not accept the transfer are dismissed. Unfairness can occur in a (real or artificial) restructuring situation if, for example, certain civil servants are reallocated in a distant city as a way to force their dismissals¹⁸⁸.

Contrary to dismissals, demotions are only possible through a disciplinary procedure. Concerned civil servants can appeal against demotion and dismissal to the AA in the first instance, and to the competent court in the second instance. No statistics exist on appeals lodged in the case of dismissal, and SIGMA received only limited data covering appeals of dismissals in the Customs Administration during the assessment period¹⁸⁹: 17 employees¹⁹⁰ were dismissed, all of whom appealed to the competent court; in 9 cases, the decision was favourable to the civil servant, who was readmitted. As

¹⁸⁶ Point conversion ranges: 0-7=0, 8-16=1, 17-25=2, 26-35=3, 36-43=4, 44-50=5.

¹⁸⁷ LPSE, Article 44.

¹⁸⁸ Employees cannot be transferred to an institution more than 50 kilometres away from their previous assignment.

¹⁸⁹ In the other assessed institutions, no dismissal was performed in the reference year.

¹⁹⁰ The dismissed employees were customs officers and not civil servants. Disciplinary procedures are different for customs officers.

fewer than 50% of the dismissals were confirmed by the courts, it can be concluded that many of these decisions were wrongful or at least procedurally incorrect.

The value for the indicator assessing ‘Merit-based termination of employment and demotion of civil servants’ is 2.

Merit-based termination of employment and demotion of civil servants						
This indicator measures the extent to which the legal framework and the human resource management practices support fair termination of employment in the civil service and fair demotion of civil servants wherever it is envisioned in the legislation. The indicator does not deal with the termination of employment and demotion of senior civil servants.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of dismissals and demotions	
1. Objectivity of criteria for termination of employment in civil service legislation	4/6
2. Objectivity of criteria for demotion of civil servants in the legislative framework	2/2
3. Right to appeal dismissal and demotion decisions to the courts	2/2
Fairness and results of dismissal practices	
4. Dismissal decisions confirmed by the courts (%)	1/4 ¹⁹¹
5. Implementation of court decisions favourable to dismissed civil servants (%)	0/4 ¹⁹²
Total¹⁹³	9/18

The legislation adequately regulates merit-based selection for civil servants, and the AA provides effective management of the selection processes. The main weak point is the low number of candidates for most vacant positions. The community quotas in the annual employment plans are intended to ensure the equitable representation mandated by the Constitution. Only 53.2 percent of dismissals submitted to the courts have been confirmed, which indicates shortcomings in the termination practices.

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

For this assessment, only Group A position holders (state secretaries) are considered senior civil servants (SCSs)¹⁹⁴. Group A positions are discretionally appointed from the pool of Group B administrative servants by a minister, head of institution or mayor, without recruitment or promotion procedures. Demotion is also discretionary. The demoted secretary returns to the individual’s former position as a Group B civil servant. Group A positions are not subject to performance appraisals or the disciplinary regime.

This hybrid system for top managerial positions created by the LAS represents a clear improvement compared to the previous situation, where the political authority could appoint anyone to the position, whether or not a civil servant. The system is at least partially based on merit, but it is still highly discretionary: the sole condition for an individual to be appointed as a state secretary or secretary general of an institution is to hold a Group B position¹⁹⁵. However, since the entry into force of the LAS,

¹⁹¹ 53.2% of the court rulings (41 out of 77 cases submitted to the courts) confirmed the dismissal decisions.

¹⁹² No data available.

¹⁹³ Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

¹⁹⁴ Group B position holders were also considered senior civil servants in the 2015 SIGMA assessment.

¹⁹⁵ The position should be at the same institution, but a previous transfer process (also discretionary) allows appointing any Group B civil servant as state secretary.

no secretary has been appointed. Therefore, only the legislative framework has been assessed. Due to the lack of practical implementation, no points have been awarded to this element.

According to the Law on Organisation of State Administrative Bodies, the heads of the administrative agencies under ministries and the independent administrative bodies¹⁹⁶ are not included in the scope of the civil service: their directors are freely appointed¹⁹⁷ by the relevant political authority. This has no logical grounds, as the functions of most of these positions are clearly more managerial and less political than, for instance, those of the secretaries of ministries.

The overall value for the indicator 'Merit-based recruitment and dismissal of senior civil servants' is 1.

¹⁹⁶ Law on Organisation of State Administrative Bodies, Article 12.

¹⁹⁷ Law on Organisation of State Administrative Bodies, Article 47, paragraph 2.

Merit-based recruitment and dismissal of senior civil servants

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

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

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

Sub-indicators	Points
Legal framework and organisation of recruitment and dismissal of senior civil servants	
1. Appropriateness of the scope for the senior civil service in legislation	2/3
2. Adequacy of the legislative framework for merit-based recruitment for senior civil service positions	3/15
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework	0/4
4. Legislative protection of the rights of senior civil servants during demotion	1/2
Merit-based recruitment and termination of employment in senior civil service positions	
5. Application in practice of recruitment procedures for the senior civil service	0/9
6. Ratio of eligible candidates per senior-level vacancy	0/4 ¹⁹⁸
7. Effectiveness of recruitment for senior civil service positions (%)	0/4 ¹⁹⁹
8. Women in senior civil service positions (%)	4/4
9. Stability in senior civil service positions	4/4 ²⁰⁰
10. Dismissal decisions confirmed by the courts (%)	0/4 ²⁰¹
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)	0/4 ²⁰²
Total²⁰³	14/57

The LAS's hybrid system for the appointments of state secretaries is an improvement on the previous situation, but it is still highly discretionary and politically biased. In addition, the heads of administrative agencies and bodies, positions with clear managerial functions in most cases, are freely appointed by the relevant political authority. In practice, all these positions are considered "political jobs" by the parties in Government.

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

Chapter XIV of the LAS is clear and complete. It regulates the different components of administrative

¹⁹⁸ The appointments to senior civil service positions are made without open competition. Therefore, no candidates are formally identified.

¹⁹⁹ Due to the lack of open competition for positions of state secretaries.

²⁰⁰ During the assessment period no state secretary left the position.

²⁰¹ No disaggregated data available for senior civil servants.

²⁰² No data available.

²⁰³ Point conversion ranges: 0-10=0, 11-19=1, 20-28=2, 29-37=3, 38-46=4, 47-57=5.

servants' salaries and expresses them in points²⁰⁴. The value of the point is fixed yearly by the Government²⁰⁵.

Each salary comprises a general component and, in certain cases, a so-called exceptional component. The general component²⁰⁶ leaves no room for interpretation. It has three different elements: the individual's educational level; the position-related supplement (i.e. the value of the position); and the seniority supplement (i.e. work experience)²⁰⁷. The exceptional component²⁰⁸ includes: i) a special working condition-related supplement for hazardous jobs and for individuals working extended hours in cabinets²⁰⁹; and ii) supplements for night work and shift work; compensation of overtime is also considered as an exceptional component. These supplements are fair and straightforward, and do not create opportunities for eventual misuse. For certain jobs, such as those related to information technology (IT), an additional salary supplement is foreseen to ensure competitiveness in the labour market. This provision has not yet been applied, as it must be activated by a Government decision.

This remuneration system is fully applicable across the scope of the LAS, meaning that similar positions in different ministries are paid the same salary. The compression ratio between the lowest and highest entry level salaries (D4 versus A1 job positions) is 4.45:1. Progression along pay levels is fair and provides moderate incentives for career progression.

The salary system also foresees a performance-related bonus²¹⁰. Attribution of this yearly bonus, which is equivalent to one month of the employee's total salary and is paid in December of a given year, is limited to a maximum of 5% of total administrative servants²¹¹. Legislation on performance appraisals is clear on the criteria for attributing performance bonuses. Secretaries are not subject to the regular performance-appraisal system and are therefore not eligible. No bonuses were paid in 2016, following the recommendation of the SCPC.

While salary information is included in job announcements, salary tables are not available on the MISA or MoF websites. According to the State Statistical Office, the average gross monthly wage in the service sector in January 2017 amounted to MKD 36 926²¹². The average monthly gross wage in the public administration (including defence but excluding education, health and social welfare) was MKD 40 402, 9.42% higher than in the service sector.

The overall value for the indicator 'Fairness and competitiveness of the remuneration system for civil servants' is 4.

²⁰⁴ The MISA foresees drafting a Law on Salaries applicable to the public sector overall. The goal is to reform the salary system to increase the importance of performance-related elements.

²⁰⁵ LAS No. 27/2014, Article 88.

²⁰⁶ LAS No. 27/2014, Article 87.

²⁰⁷ 0.5% of the educational level and the position supplement per year of seniority, up to a maximum of 20% (40-year career).

²⁰⁸ LAS, Articles 89-93.

²⁰⁹ Under the LAS, a cabinet officer is supposed to be always available for the Minister. The cabinet supplement compensates this extended availability and working hours.

²¹⁰ LAS, Article 68.

²¹¹ This is only an assessment of the legislative framework, as no bonuses were actually paid in 2015 (pilot year) or 2016 (as a result of the decision to freeze HR processes of the SCPC and the MISA by virtue of the electoral process)

²¹² <http://www.stat.gov.mk/pdf/2017/4.1.17.31.pdf>, accessed 7 May 2017.

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

Sub-indicators	Points
Legal framework and organisation of the remuneration system	
1. Legal obligation to base salaries on job classifications	2/2
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation	2/2
3. Availability of salary information	1/3
Performance and fairness of the remuneration system in practice	
4. Fairness in the allocation of base salaries in the job classification system	1/4
5. Base salary compression ratio	2/2
6. Managerial discretion in the allocation of bonuses	2/2
7. Motivational character of bonuses (%)	1/2 ²¹³
8. Competitiveness of civil service salaries (%)	3/3
Total²¹⁴	14/20

The salary system, applicable across the scope of the LAS, is simple and rational, based on job classification. The procedures to allocate base salary promote fairness and equality, and the progression along pay levels provides moderate career incentives. Salary information is not available at MISA or MoF websites and does not provide gender disaggregation.

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

The LAS recognises training as a right and a duty of civil servants. The MISA is the co-ordination body for the civil-service training policy: it collects the annual training plans from state administrative bodies and prepares and adopts an annual training programme for “generic competences”²¹⁵ based on those plans. The MISA is in charge of organising those generic trainings for administrative servants. This was formerly a responsibility of the AA; the competence and the staff in charge were transferred to the MISA when the LAS entered into force. The LAS stipulates the creation of an “academy” within the MISA to perform those activities, but a classical public administration school has not been created.

Regular face-to-face trainings are very scarce. In 2016, only 334 civil servants (from a total of 18 097, i.e. 1.8%) received trainings organised by the MISA. Eight courses were organised, totalling 131 training hours, and training expenditures only amounted to about MKD 2 million, less than 0.01% of the total salary expenditure. For the last two years, the MISA has invested in e-learning modules on generic competences, as required by the LAS. No data exists on the number of e-courses followed by civil servants; the e-learning platforms do not allow drawing up statistics. In addition, no evaluation tools are built into the e-learning system.

²¹³ Due to SCPC recommendations, bonuses were not awarded in the assessment year.

²¹⁴ Point conversion ranges: 0-3=0, 4-7=1, 8-10=2, 11-13=3, 14-16=4, 17-20=5.

²¹⁵ Generic training covers “horizontal” competences, e.g. project management and integrity.

The scarcity of budget and staff devoted to training shows that the MISA does not consider training a priority. As a result, institutions are left alone to solve their training needs. But, in 2016, neither the MoF nor the Ministry of Economy offered their employees any training course paid by the state budget. In certain institutions (e.g. the Customs Administration and the Cadastre Agency), the HRM units themselves organise technical trainings. In some cases, these training courses are connected to a training needs assessment and included in an annual training plan.

The appraisal system is theoretically well linked to professional development and results in a mandatory individual yearly training plan based on the determination of working goals and tasks for the next cycle. In practice, however, these individual professional development plans usually consist only of some randomly picked e-learning activities. In cases of negative performance, the Law foresees the possibility of additional training or mentoring.

Provisions concerning the appraisal system were implemented on a pilot basis in 2015. The system went through its first complete cycle in 2016. However, SIGMA did not receive data on the number of civil servants evaluated or the percentages who received the highest and the lowest marks. As a result of the elections-related freezing of HR decisions, no positive or negative consequences resulted from the 2016 appraisals. Employees may appeal appraisal results to the AA and/or the competent court.

Chapter VII of the LPSE provides the regulatory basis for organising mobility procedures; it states that mobility is possible upon prior consent of the employee and the manager of the receiving institution. A transfer to other positions (within a radius of 50 kilometres from the present location) can also be imposed on public employees, but this creates a risk of unfair use, since no appeal is possible.

Chapter VIII of the LAS is devoted to the promotion procedure. This assessment will only comment on the legal provisions, as no promotion was possible in the assessment year due to the pre-electoral situation. Candidates for promotion should hold a position immediately lower than the position opened for competition. A specifically designated committee²¹⁶ (hereafter designated as the promotion committee) undertakes the promotion procedure: after checking the job requirements, the promotion committee scores qualified applicants according to their training, performance and mentorship records. It then conducts an oral interview and takes the final decision concerning the promotion.

As an exception to the rule, interviews for promotions to Group B positions are directed by the secretary of the institution alone, instead of the promotion committee²¹⁷. The results are then communicated to the committee, which integrates them with the other results (i.e. the candidates' scores) and proposes the best candidate. This mechanism for promotion to Group B positions entails two risks: i) the secretary is the sole interviewer, potentially leading to unfair discretionary decisions; and ii) the secretary is not an HR professional and may lack the specialised skills to correctly perform a structured interview allowing fair comparison between candidates. Additionally, the interview methodology for promotion procedures is not regulated and not supported by any guidelines, potentially allowing high degrees of discretion.

The overall value for the indicator 'Professional development and training for civil servants' is 2.

²¹⁶ The Committee comprises three members: the president is the head of the unit where the vacancy has been declared, and the two other members are administrative servants from the institution's HR unit (LAS No. 27/2014, Article 50).

²¹⁷ LAS, Article 51, paragraph 7.

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

Sub-indicators	Points
Legal framework and organisation of professional development	
1. Recognition of training as a right and a duty of civil servants	2/2
2. Co-ordination of the civil service training policy	2/3
3. Development, implementation and monitoring of training plans	0/3
4. Evaluation of training courses	0/2
5. Professionalism of performance assessments	2/4 ²¹⁸
6. Linkage between performance appraisals and measures designed to enhance professional achievement	2/4
7. Clarity of criteria for and encouragement of mobility	0/2
8. Adequacy of legislative framework for merit-based vertical promotion	2/2
9. Absence of political interference in vertical promotions	0/2
10. Right of civil servants to appeal against performance appraisal decisions	2/2
11. Right of civil servants to appeal mobility decisions	0/2
Performance of professional development practices	
12. Training expenditures in proportion to the annual salary budget (%)	0/4
13. Participation of civil servants in training	0/5
14. Perceived level of meritocracy in the public sector (%) ²¹⁹	2/5
Total²²⁰	14/42

Training for the civil service is very scarce and the MISA plays a weak role in the system. It is still not possible to assess the strength of the performance appraisal system due to the lack of genuine implementation. There are risks of political bias in promotions to senior positions, and public employees perceive low levels of meritocracy in the public sector.

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

The LAS describes the basic principles governing the disciplinary procedure; the secondary legislation²²¹ only provides further details on the process itself. The legislation does not specify that the disciplinary procedure should be based on an impartial investigation of the facts – which could induce a suspicion of discretionary power – nor does it explicitly mention the presumption of innocence.

The time limit for initiating a disciplinary procedure is three months after the wrongdoing (or up to one year, if the fault was discovered during an internal audit), whether for minor or major violations. This timeframe is too short, especially for major violations, and could induce a feeling of impunity. The LAS adequately distinguishes between disciplinary irregularities and disciplinary offences; in both cases,

²¹⁸ Insufficient data provided to enable assessment.

²¹⁹ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

²²⁰ Point conversion ranges: 0-6=0, 7-13=1, 14-21=2, 22-29=3, 30-36=4, 37-42=5.

²²¹ Rulebook on Disciplinary Procedures and Offences.

civil servants have the opportunity to respond to the allegations levied against them. For disciplinary irregularities²²², the secretary alone makes a decision based on a written report submitted by the incriminated individual's manager. For disciplinary offences²²³, the secretary establishes a commission to analyse the case. Secondary legislation²²⁴ grants the administrative servant the right to be assisted by a lawyer or trade union representative, but does not explicitly mention the right to access all relevant documents to prepare the individual's defence.

Regarding the proportionality of the measures, the maximum fines – for minor violations, 20% of the individual's monthly salary for three months could be considered excessive. For both disciplinary irregularities and offences, the civil servant can lodge an appeal with the AA and the court²²⁵. Legal safeguards are in place, and suspending civil servants from duty is only possible when: i) criminal proceedings are brought against the civil servant for a crime committed at work or related to work; or ii) a disciplinary procedure is initiated for an offence such that the civil servant's presence in the workplace shall adversely affect the institution²²⁶.

Assessing disciplinary procedures is not possible for the assessment year: the MISA has not kept any information on minor or major violations to date. While such information can technically be kept in the HRMIS, this was not effective as of May 2017. Furthermore, the annual MISA report does not mention disciplinary measures. Finally, SIGMA did not receive the requested disciplinary files from a sample of assessed institutions. The AA has provided data on the complaints related to disciplinary sanctions submitted to a second instance commission²²⁷, but no data has been provided concerning the percentage of disciplinary decisions confirmed by the courts.

The overall value for the indicator 'Quality of disciplinary procedures for civil servants' is 2.

²²² For instance, non-compliance with the set working hours; disorderly maintenance of official documents and data; non-economical use of the entrusted financial assets and working assets; and refusing professional training and development. The complete list of disciplinary irregularities is included in the LAS No. 27/2014, Article 72.

²²³ For instance, indecent behaviour of the administrative servant in the course of performing work and work assignments; violation of the administrative servant's status; accepting gifts or other benefits; abusing sick leave; and abusive or violent behaviour in the workplace. The complete list of disciplinary offences is included in the LAS No. 27/2014, Article 73.

²²⁴ Rulebook on Disciplinary Procedures and Offences.

²²⁵ LAS, Article 75, paragraph 4.

²²⁶ LAS, Article 80.

²²⁷ 114 complaints were submitted in 2016 to the Commission of the Administration for Decision-making on Appeals and Objections of the Administrative Servants in the Second Instance; of these 60 were accepted, 45 rejected, 6 dismissed, 1 withdrawn and 2 non-authorized.

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

Sub-indicators	Points
Legal framework and organisation of disciplinary system	
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures	4/4
2. Compliance between disciplinary procedures and essential procedural principles	0/6
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour	1/2
4. Legislative safeguards for suspension of civil servants from duty	2/2
Performance of the disciplinary procedures	
5. Disciplinary decisions confirmed by the courts (%)	0/4 ²²⁸
Total²²⁹	7/18

The legislation governing integrity in the public sector is quite strong, with related provisions in both the LAS and the LPSE. A few specific regulations also exist, mainly the Law on Prevention of Conflict of Interest²³⁰; the Law on Protection of Whistle-blowers²³¹, or the Code of Conduct of Civil Servants. The Criminal Code also features specific provisions on this topic. The SCPC is in charge of promoting preventive actions in the public sector.

Secondary employment is regulated by the Labour Law and the Law on Prevention of Conflict of Interest. The Labour Law limits secondary employment to a maximum of 20 hours per week for all employees (including public employees and civil servants)²³². The Law on Prevention of Conflict of Interest requires public employees to inform their institution of a potential conflict of interest created by their secondary employment. This could be a weakness, as public employees are only required to inform their employer, rather than ask for prior permission to undertake secondary employment. Should the institution or public employee harbour doubts on the appropriateness of secondary employment, advice can be requested from the SCPC. The Law on Prevention of Conflicts of Interest obliges top civil servants to declare their assets when entering and leaving office. The declaration is to be made to the SCPC and to the Public Revenue Office.

The State Programme for Prevention and Repression of Corruption and Conflict of Interest 2016-2019 of the SCPC includes the whole scope of the public service in its strategy and actions. Strategic objectives 1 and 3 of the State Programme are specifically geared towards public institutions (and therefore their employees). The Programme's narrative section is quite complete, and is based on international reports and recommendations; its action plan is quite clear, and contains activities and timelines. The Programme's only weak point is the lack of cost estimation, as it only identifies the activities involving a financial cost, but without estimating those costs.

²²⁸ No data provided.

²²⁹ Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

²³⁰ Law No. 128/2009 on Prevention of Conflict of Interest, amended by Law No. 7/2012.

²³¹ Law on Protection of Whistle-blowers, Official Gazette No. 196/2015.

²³² There is no excluding provision in the LPSE or the LAS on this issue.

The main weakness is the implementation of the foreseen actions. In 2016, only 17% of the activities related to Strategic objective 1 were implemented, and none of the activities related to Strategic objective 3 were implemented within the planned deadlines. The programme is monitored annually, with the SCPC presenting the monitoring report to the Parliament and subsequently publishing it on its website.

During the assessment period, no data was provided on the use of integrity mechanisms in practice. The value for the indicator 'Integrity of public servants' is 3.

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

Sub-indicators	Points
Legal framework and organisation of the public sector integrity	
1. Completeness of the legal framework for public sector integrity	5/5
2. Existence of a comprehensive public sector integrity policy and action plan	3/4
3. Implementation of public sector integrity policy	2/3
Public sector integrity in practice and public perceptions	
4. Use of investigations in practice	0/4 ²³³
5. Perceived level of bribery in the public sector by businesses (%)	2/4
6. Bribery in the public sector by citizens (%)	1/4
Total²³⁴	13/24

The disciplinary regulations do not explicitly mention the presumption of innocence and the impartial investigation of the facts. There is no legal guarantee of the right to access all relevant documents, and some other safeguards are weak. The maximum fines for minor violations seem excessive. The statute of limitation for prosecuting major violations is too short, but a lack of data has prevented assessment of real practices. The legal framework on integrity in the public sector is strong and the SCPC is responsible for integrity policies, although they are implementation flaws. No data has been provided on the use of integrity investigations.

Key recommendations

Short-term (1-2 years)

- 1) To increase the number of candidates in public competitions, the Government should conduct communication campaigns promoting employment opportunities in the public sector and making citizens aware of its fairness guarantees.
- 2) The Government should consider reforming the selection practices for top managerial positions in the public sector to ensure merit is the only, or main criterion. Reforms should specifically ensure

²³³ No data provided.

²³⁴ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-24=5.

professionalisation of the heads of administrative agencies and bodies, and should further reinforce professionalisation of the secretaries general.

- 3) The MISA should ensure that it has adequate resources to meet its responsibilities for the professional training and development of public servants, and should develop all the tools required for meeting the requirements of the new legislation.

Medium-term (3-5 years)

- 4) The MISA should explore the feasibility of creating a public administration academy, as prescribed in the new civil service legislation.

4

Accountability

ACCOUNTABILITY

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

1.1. State of play

The legislative framework for the organisation of public administration is generally in place. The Law on the Organisation and Operation of State Administrative Bodies²³⁵ (LOOSAB) sets the framework for the state administrative apparatus, but because distinctions among different types of organisations are not clear, administrative authority is divided among too many bodies. Double lines of accountability for public bodies unnecessarily diffuses accountability in several cases, while at the same time there is no logical and convincing reason for certain institutions to be independent and accountable only to the Parliament.

No comprehensive policy is currently in place for improving accountability mechanisms. The Ministry of Information Society and Administration (MISA) has analysed the situation and recently drafted a first version of the Public Administration Reform (PAR) Strategy 2017-2022 and Action Plan. By 30 June 2017, the work was not yet finalised.

Legal guarantees for access to public information are in place, but their implementation is sometimes hindered by the excessively broad scope of exceptions. The independent Commission for Protection of the Right to Free Access to Public Information (the Commission) supervises implementation of the right to access public information, and its 2016 annual report²³⁶ shows a sharp increase in requests for public information from information holders (7 365 requests, 50% more than in 2015); at the same time, granting access has risen from 93% to 98%. According to the 2017 Balkan Barometer survey, 47% of citizens and 60% of businesses are satisfied with the timeliness of responses to public information requests, while 50% of citizens and 60% of businesses are satisfied with the pertinence and completeness of the information²³⁷. The figures for citizen satisfaction are close to the average for Western Balkan countries, while those for business satisfaction are high for the region. The Law on the Ombudsman²³⁸ does not explicitly mandate that the Ombudsman promote human rights, but it supports its activities, and recommendations of the Ombudsman are implemented at a rate of 89%. The State Audit Law²³⁹ (SAL) meets international standards and provides the institution with the tools necessary to fulfil its mandate.

The judiciary is independent and capable of fulfilling its duties in a democratic society. A system of internal administrative appeals and judicial review of administrative acts is in place. Administrative courts are efficient in resolving their cases, but this does not suffice to substantially reduce the heavy backlog. Also, the right to administrative justice is diminished by the limited number of decisions made on merit, resulting in delays and overburdening of the courts.

None of the three institutions – the Ombudsman, the State Audit Office (SAO) or the courts – are highly trusted. According to the 2017 Balkan Barometer survey²⁴⁰, citizens perceive the Ombudsman as

²³⁵ Official Gazette Nos. 58/00, 44/02/, 82/08, 167/10, 51/11.

²³⁶ <http://www.komspi.mk/wp-content/uploads/2016/06/Годишен-извештај-за-2016.pdf>.

²³⁷ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>

²³⁸ Official Gazette Nos. 60/03, 114/09, 181/16 and 189/16.

²³⁹ Official Gazette No. 66/2010.

²⁴⁰ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

41% free from political influence, the SAO 37% free and the courts 23% free²⁴¹.

The general principle of public liability is set out in legislation, but there is no one clear and comprehensive law on public liability. Public liability cases are dealt with not by administrative courts, but by general civil courts, making it a lengthy two-step process in which both parties must eventually handle their own expenses.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement²⁴² and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

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

The main strategic policy document in this area, the PAR Strategy 2010-2015, is outdated, but the new draft PAR Strategy 2017-2022 and its Action Plan being prepared by the MISA had not been finalised by 30 June 2017. Thus, in 2016 there was no Government policy document in this area to guide the administration.

The most important development since 2015 is the new Law on General Administrative Procedures (LGAP)²⁴³, which became effective in August 2016. The new Law unifies administrative procedures through government structures and reflects all principles of good administrative behaviour, respecting most of SIGMA's recommendations based on the previous version of the Law. By the end of March 2016, before the new LGAP had even entered into force, 169 special material laws had already been harmonised with it.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports²⁴⁴

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2	2
	Extent to which the right to access public information is enacted in legislation and applied in practice.	3	3
	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	4	4
	Extent to which public authorities assume liabilities and guarantee redress.	1	1

²⁴¹ Respondents who "Tend to agree" or "Totally agree" with the statements: "Do you agree that the ombudsman is independent of political influence?", "Do you agree that the supreme audit institution is independent of political influence?" and "Do you agree that the judicial system is independent of political influence?"

²⁴² OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

²⁴³ Official Gazette No. 124/2015.

²⁴⁴ OECD (2015), *Baseline Measurement Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris.

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Quantitative	Number of bodies reporting to the council of ministers, to the prime minister or to the parliament.	27 ²⁴⁵	27 ²⁴⁶
	Share of public information requests refused in a given year by the supervisory authority.	39% ²⁴⁷	19% ²⁴⁸
	Share of oversight institutions' recommendations to state administrative bodies implemented within two years	87% ²⁴⁹	89% ²⁵⁰
	Number of complaints submitted to the administrative court in a given year.	13 753 ²⁵¹	13 288 ²⁵²
	Percentage of cases changed or returned for verification by the higher court.	21.2 ²⁵³	17.6 ²⁵⁴
	Backlog of administrative cases.	10 743 ²⁵⁵	9 090 ²⁵⁶

²⁴⁵ Twenty-two institutions are accountable to the Assembly and five to the Prime Minister or council of ministers.

²⁴⁶ Ditto.

²⁴⁷ According to information provided by the Commission, 330 of 543 appeals submitted to it were accepted.

²⁴⁸ The Commission's Annual Report 2016, <http://www.komspi.mk/wp-content/uploads/2016/06/Годишен-извештај-за-2016.pdf>.

²⁴⁹ Relates only to the Ombudsman: of 1 278 recommendations issued, 1 114 were implemented according to the Ombudsman's report for 2014.

²⁵⁰ Annual Report on the Degree of Provision, Respect, Advancement and Protection of Human Rights and Freedoms 2016, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2016/GI-2016.pdf>.

²⁵¹ Data provided by the Administrative Court.

²⁵² Administrative Court Annual Report 2016.

²⁵³ According to the Administrative Court, 16.61% of cases were changed and 4.56% of cases returned.

²⁵⁴ According to the Administrative Court, 13.47% of cases were changed and 4.13% of cases returned in 2016.

²⁵⁵ Data provided by the Administrative Court; number of cases pending at the end of 2015.

²⁵⁶ Administrative Court Annual Report 2016; number of cases pending at the end of 2016.

2. ANALYSIS

This analysis covers five Principles for the accountability area grouped under one key requirement. It includes a summary analysis of the indicator(s) used to assess against each Principle, including sub-indicators²⁵⁷, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

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



Analysis of Principles

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

The general structure of the state administrative apparatus is defined in the Constitution and in more detail in the LOOSAB. Article 5 of the LOOSAB provides a general typology of state administrative bodies that can be established as ministries, other state administrative bodies (both independent and within ministries) and administrative organisations. The LOOSAB clearly designates all ministries with their competences and areas of responsibility: 5 independent bodies, 4 administrative organisations and 35 bodies within ministries, some of them with legal personality. Other state administrative and independent bodies have been created through special laws, and it appears that some of the bodies regulated generally under the LOOSAB are further regulated by special law, thus the impact of the LOOSAB on setting standard accountability mechanisms and specifying roles and differences in status and authority of different state administration bodies is rather weak.

The accountability system for state bodies (both autonomous and those set up within ministries) is weak. According to the LOOSAB, autonomous bodies are supervised by the relevant ministry, but the

²⁵⁷ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

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pertinent material laws usually stipulate that they (and some bodies within the ministries) also report to the Government on the previous year's performance. In practice, this system creates two lines of accountability, one to the Government (or specifically to the Prime Minister) and another to the relevant minister. Furthermore, SIGMA was informed that on some occasions a ministry will pass a report on to the Government without reviewing it, and the Government does not analyse the information either.

There are no standards for reports, nor does the Government analytically process them or attempt to distinguish between good and poor performers. The LOOSAB does not contain instruments to enhance results-oriented management through specific performance indicators.

Twenty-two institutions are accountable to the Assembly, most of them constitutional bodies and regulatory agencies. There are also, however, bodies that would normally fall under the executive, such as the Central Registry or the Agency for Administration. The bodies accountable to the Assembly present reports to it annually, and the Assembly sends them to the Government, which prepares consolidated opinions of the relevant ministries. These opinions are taken into consideration when the reports are scrutinised by the Assembly. This has resulted in the value of zero for the sub-indicator on direct subordination of executive bodies to the Parliament²⁵⁸.

Systematic co-operation among different ministries in forming interministerial working groups, especially for elaboration of new laws, is fairly good. Senior management staff from the ministries suggested in discussions with SIGMA that the culture of co-operation is rather strong and supports the results-oriented work of such working groups. Usually, the State Secretaries of the ministries discuss topics initially, and working groups are then formed by the Government decision that appoints a responsible ministry and sometimes also identifies additional financing.

The system of managerial accountability is rather centralised, but in the case of procurement, the Law on Public Procurement²⁵⁹ creates some flexibility and decentralisation of power, allowing for the delegation of decision making from the minister to lower-level state officials.

The value for the indicator 'Accountability and organisation of central government' is 1.

²⁵⁸ More than 16 bodies subordinate to the Parliament results in the sub-indicator value of zero.

²⁵⁹ Official Gazette Nos. 136/07, 130/08, 97/10, 53/11, 185/11, 24/12, 15/13, 148/13, 28/14, 43/14, 130/14, 180/14, 27/15, 75/15, 192/15, 27/16 and 120/16.

Accountability and organisation of central government

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

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

Sub-indicators

Points

Policy and legal framework for central government organisation

1. Clarity and comprehensiveness of official typology of central government bodies	2/5
2. Adequacy of the policy and regulatory framework to manage central government institutions	1/5
3. Strength of basic accountability mechanisms between ministries and subordinated bodies	3/5
4. Managerial accountability mechanisms in the regulatory and legislative framework	3/5

Central government's organisation and accountability mechanisms in practice

5. Consistency between practice and policy in government re-organisation	0/4 ²⁶⁰
6. Number of public bodies subordinated to the parliament	0/4 ²⁶¹
7. Accountability in reporting between central government bodies and parent ministry	0/4 ²⁶²
8. Effectiveness of basic managerial accountability system for central government bodies	0/4 ²⁶³
9. Delegation of decision-making authority within ministries	1/4
Total²⁶⁴	10/40

The LOOSAB sets the framework for the state administrative apparatus, but the roles of different government bodies are not clearly defined and too many have been established by specific laws, which also specify the governance regime. Accountability is blurred due to double reporting of some agencies to both a ministry and the Government, with no clear standards and no analysis of the performance of these agencies. Results-oriented management has not been established; numerous agencies are directly subordinate to the Assembly or the Council of Ministers; and there is no specifically formulated and politically accepted policy on the institutional development of the state administration.

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

Access to public information is a constitutional right (Article 16 of the Constitution). The Law on Free Access to Information of Public Character (LFAI)²⁶⁵ specifies ways of realising this right and the

²⁶⁰ No data provided.

²⁶¹ There are 19 agencies subordinate to the Parliament. Supervisory institutions, such as the SAO, the Ombudsman and the Commission for Protection of Access to Public Information, are not counted in this figure.

²⁶² Two out of seven institutions for which data is available meet the standard.

²⁶³ Two out of seven institutions for which data is available meet the standard.

²⁶⁴ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

²⁶⁵ LFAI, Official Gazette Nos. 13/2006; 86/2008, 6/2010 and 42/2014.

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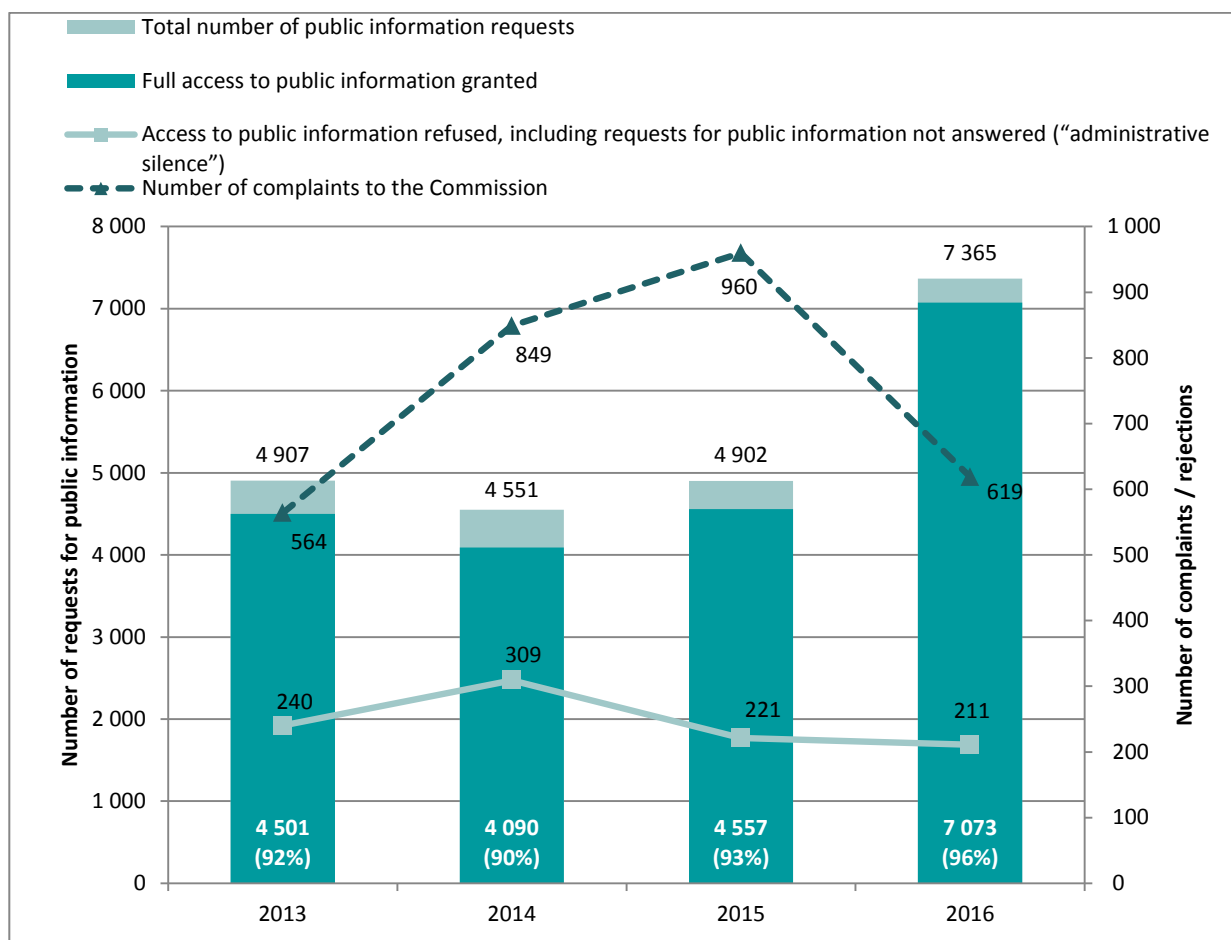
responsibility of state organs to give or offer public information to interested parties. Public information is defined broadly in the LFAI, and entities classified as “public information holders” include not only public bodies but private bodies that perform public functions. Each public information holder is required to designate an official for information mediation to facilitate the process of requesting public information.

Applicants do not need to provide a reason for seeking public information, and the information must be disclosed in the requested format. There are no monetary barriers to accessing information, as it is generally supposed to be provided free of charge. However, if fulfilling the request requires additional work or expense on the part of the government body, fees will be calculated to take this into account. Despite this general rule, several state bodies have established rather high fees for their services (land cadastre, courts) through Government regulation²⁶⁶. Overall, the 2017 Balkan Barometer survey indicates that 43% of citizens and 49% of businesses agree that public information is provided at a reasonable cost²⁶⁷.

²⁶⁶ Decision on Determining the Fee for Costs for Providing Information by Information Holders (Official Gazette No. 13/2006).

²⁶⁷ Figures cover those who “tend to agree” or “totally agree” with the statement, “Requests for information are granted at a reasonable cost.”

Figure 1. Requests for public information handled by public administration bodies for years 2013-2016)



Note: KOMSPI = Commission for Protection of the Right to Free Access to Public Information.

Source: The Commission for Protection of the Right to Free Access of Public Information's annual reports 2013, 2014, 2015 and 2016, http://www.komspi.mk/?page_id=2609.

The Commission for Protection of the Right to Free Access of Public Information (the Commission) plays a major role in protecting the right to public information access: it has the authority to review decisions of information holders and acts as the internal administrative appellate board. If a party to the review is not satisfied with the Commission's judgement, the case may go to the administrative court for judicial review. It is also responsible for organising and providing training for civil servants in the field of public information access, and for promoting proactive disclosure of public information²⁶⁸.

The LFAI's two main shortcomings are, first, its broad scope of exceptions to the rule that information held by public bodies is public, making it possible for information holders to illegitimately restrict access to public information. For example, access to information may be refused if it concerns "information related to commercial and other economic interests, including the interests of monetary and fiscal policies" or "information related to environment protection which is not available to the public due to human health and environmental protection". Public information requests may also be rejected if they concern documents that are still under preparation. The non-governmental organisation (NGO) the Macedonian Center for International Cooperation reported that in 2015, ministries published only 16% of the total number of draft laws submitted to the Parliament through the electronic consultation system (ENER, or the National Electronic Registry of Legislation)²⁶⁹. A more

²⁶⁸ LFAI, Article 32.

²⁶⁹ Report on Enabling Environment for Civil Society Development in Macedonia 2015, <http://library.concordeurope.org/record/1840/files/DEEEP-REPORT-2016-086.pdf>

general problem, as demonstrated in Table 2, is that public bodies are not transparent in their work, to the extent that some policy reports presented to the Government are not made publicly available²⁷⁰.

The second major deficiency is that the Commission does not have the right to impose sanctions on officials not providing requested information or otherwise mishandling cases, even though the LFAI does envisage financial sanctions²⁷¹; the NGOs that SIGMA interviewed saw this as the most important obstacle to effective provision of public information²⁷². Furthermore, the Commission has no capacity to monitor whether the requirements to proactively disclose public information are being respected by state administration bodies.

Table 2. Active provision of general information in ministry websites

	Ministry of Economy	Ministry of Education, Science and Technology	Ministry of Internal Affairs	Ministry of Finance	Ministry of Justice
Organigram	✓	✓	✓	✓	✓
Names and contact details of heads of organisational units		✓		✓	
Contact details with postal address and e-mail	✓	✓	✓	✓	✓
Tasks and competences of the institution			✓	✓	
Annual work plan of the institution for 2017		✓			✓
Annual budget for 2017					
Annual report for 2015		✓			

Source: SIGMA review of the Ministries' websites, April 2017.

Despite the legal guarantees and institutions designated to oversee the processes, the practical implementation of public information provision is criticised by civil society organisations: according to them, official data on rejection of requests is not fully trustworthy and the real number is likely to be higher²⁷³. NGO representatives also mentioned that the treatment of applicants is sometimes not equitable, as the media and advocacy NGOs are given preferential treatment over individual citizens owing to their experience and knowledge of rights enforcement methods.

On the positive side, the Commission reports that out of 1 259 holders of public information, 1 250 submitted compulsory reports to it in 2016 (only 898 submitted the report in 2015). Its 2016 annual report shows a sharp increase in public information requests to information holders (7 365 requests, 50% more than in 2015), and improved granting of access from 93% to 98%²⁷⁴. According to the 2017 Balkan Barometer survey, 47% of citizens and 60% of businesses are satisfied with the timeliness of

²⁷⁰ SIGMA was not provided access to reports on implementation of the National Strategy for People with Disabilities.

²⁷¹ This is due to the legal interpretation that the LFAI does not mandate the Commission to impose fines on public bodies. In practice, the Commission has never issued a fine.

²⁷² SIGMA focus group interview, 6 May 2017.

²⁷³ Ditto.

²⁷⁴ Annual Report 2016 of the Commission, <http://www.komspi.mk/wp-content/uploads/2016/06/Годишен-извештај-за-2016.pdf>.

responses to public information requests²⁷⁵, while 50% of citizens and 60% of businesses are satisfied with the pertinence and completeness of the information²⁷⁶.

The Law on the Use of Public Sector Data²⁷⁷, which supports the provision of datasets to the public, has resulted in 154 datasets being provided by 27 institutions that can be downloaded from the MISA-operated central webpage²⁷⁸.

Overall, the value for the indicator 'Accessibility of public information' is 3.

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

Sub-indicators	Points
Legal and institutional framework for access to public information	
1. Adequacy of legislation on access to public information	9/10
2. Comprehensiveness of monitoring on the implementation of legislation on access to public information	3/5
Citizens' level of access to public information	
3. Proactivity in disclosure of information by state administration bodies on their websites (%)	2/5
4. Proactivity in disclosure of datasets by the central government (%)	3/5
5. Perceived accessibility of public information by the population (%)	1/2.5
6. Perceived accessibility of public information by businesses (%)	1.5/2.5
Total²⁷⁹	19.5/30

Legal guarantees for access to public information are in place, but practical implementation of the right to access information is complicated by a number of problems, including an excessively broad scope of exceptions and insufficient independent monitoring. Proactive disclosure of public information is not yet widespread, even though public bodies granting access to information requests has been improving continuously. Businesses are especially satisfied with the timeliness, pertinence and completeness of public information provision.

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

The legal framework for oversight institutions generally meets international standards and creates a strong basis for the activities of the Ombudsman, the General State Auditor and the judiciary. However, the mandate of the Ombudsman needs to be strengthened.

²⁷⁵ Those who "Tend to agree" or "Totally agree" with the statement "Requests for information held by a government agency are granted in a timely manner."

²⁷⁶ Those who "Tend to agree" or "Totally agree" with the statement "The information provided by a government agency is pertinent and complete."

²⁷⁷ Official Gazette No. 27/2014.

²⁷⁸ <http://www.otvorenipodatoci.gov.mk/>

²⁷⁹ Point conversion ranges: 0-5=0, 6-10=1, 11-15=2, 16-20=3, 21-25=4, 26-30=5.

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Article 77 of the Constitution defines the constitutional status and main guarantees for the Ombudsman. The Constitution charges the Ombudsman to protect the constitutional and legal rights of citizens against violation by state administrative bodies, and to give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in all areas of public life. Specific issues related to activities of the Ombudsman are handled in accordance with international standards regulated in the Law on the Ombudsman²⁸⁰. No state administration body is exempt from the Ombudsman’s oversight, and the Ombudsman may investigate cases *ex officio* and challenge legislative acts by lodging a case with the Constitutional Court; however, the Law on the Ombudsman does not explicitly mandate that the Ombudsman promote human rights as required by the Paris Principles relating to the status and functioning of national institutions in protecting and promoting human rights²⁸¹. The strong respect of the state administrative bodies for the Ombudsman is reflected in the high share of Ombudsman recommendations they implement (Table 3).

Table 3. Ombudsman recommendations, 2014-2016

	2014	2015	2016
Number of recommendations issued	1 278	1 514	1 523
% of recommendations implemented	87%	82%	89%

Source: Annual reports of the Ombudsman, http://ombudsman.mk/MK/godishni_izveshtai.aspx.

The SAO has the status of an independent body, although it is not defined as such in the Constitution. The SAL, adopted in May 2010²⁸², established the conditions and method for conducting state audits, as well as the organisation and competences of the SAO. The SAL stipulates that the General State Auditor and the Deputy each be elected – and dismissed – by the Parliament for a nine-year term without being eligible for re-election²⁸³. The SAO has the right to conduct audits covering all public expenditures²⁸⁴ and is independent in drawing its conclusions, but it must present an annual report of its activities to the Parliament by 30 June²⁸⁵. The SAL guarantees the operational and financial independence of the SAO according to international standards set in the Lima Declaration of Guidelines on Auditing Precepts and in the Mexico Declaration on Supreme Audit Institution (SAI) Independence.

Public perception of the two independent supervisory institutions is not favourable, however. According to the 2017 Balkan Barometer survey, only 31% of citizens agree that the Ombudsman institution is free from political influence, while 27% believe it of the SAO²⁸⁶. When asked about having trust in these two institutions more generally, positive responses rose to 41% for the Ombudsman and 36% for the SAO²⁸⁷.

The role of the judiciary and its status are defined in general terms in the Constitution, which provides a broad range of guarantees for judicial independence. Organisation and management of the courts are regulated in more detail in the Law on Courts²⁸⁸ and the Law on Judicial Council²⁸⁹. Crucial decisions

²⁸⁰ Official Gazette Nos. 60/03, 114/09, 181/16 and 189/16.

²⁸¹ Adopted by United Nations General Assembly Resolution No. 48/134 of 20 December 1993.

²⁸² Official Gazette Nos. 66/2010 and 145/2010.

²⁸³ SAL, Article 4.

²⁸⁴ *Idem*, Article 22.

²⁸⁵ *Idem*, Article 33.

²⁸⁶ Those who “tend to agree” or “totally agree” with the questions, “Do you agree that the ombudsman is independent of political influence?”, and “Do you agree that the supreme audit institution is independent of political influence?”.

²⁸⁷ Those who “tend to trust” or “totally trust” in response to the questions, “How much trust do you have in the ombudsman?”, and “How much trust do you have in the supreme audit institution?”.

²⁸⁸ Official Gazette Nos. 58/2006, 35/2008 and 150/2010.

²⁸⁹ Official Gazette Nos. 60/2006, 150/2010, 100/2011, 20/2015 and 61/2015.

concerning court management are made by 15 independent members of the Judicial Council²⁹⁰, and all main decisions related to the independence of the judiciary are also made by the Judicial Council.

The procedure for appointing and promoting judges by the Judicial Council has been regulated in a detailed manner, ensuring transparent criteria for assessment of candidates. Disciplinary measures against judges are specified even in the Constitution, and the procedure for imposing them has been established in the law²⁹¹. The Law on the Court Budget²⁹² defines procedures for drafting, adopting and enforcing the court budget and for setting up the Court Budget Council. The Academy for Training of Judges and Public Prosecutors has been established to train judges, and a reasonable amount of training is provided systematically by the Academy of Judges and Prosecutors acting under its own law²⁹³.

Only a few minor amendments – related to length of terms of Judicial Council members and to greater flexibility on disciplinary measures – are currently under discussion between the Judicial Council and the Ministry of Justice, but the new PAR Strategy prescribes elaboration of a new Law on Administrative Disputes (LAD) and a Law on State Legal Aid. In addition, some larger projects, especially in the field of information and communication technology (ICT), are being developed to provide courts with a better, more modern case management system. On the negative side, however, business representatives emphasised in interviews that trust in court activities is in decline, mainly because of a negative attitude towards businesses²⁹⁴. According to the 2017 Balkan Barometer survey, citizens generally tend to see political influence exercised over the judiciary as a problem, and only 23% of respondents perceive the judiciary to be free from political influence²⁹⁵.

These factors are reflected in a value of 4 for the indicator 'Effectiveness of scrutiny of public authorities by independent oversight institutions'.

²⁹⁰ Constitution, Amendment XXVIII, Official Gazette No. 107/2005.

²⁹¹ Law on the Council for Determination of the Facts and Initiation of Disciplinary Procedure for Establishing Disciplinary Responsibility of a Judge, Official Gazette No. 20/2015.

²⁹² Official Gazette Nos. 60/03, 37/06, 103/08 and 145/10.

²⁹³ Official Gazette Nos. 88/2010, 166/2012 and 26/2013; Constitutional Court Decision U. No. 183/2010 of 4 May 2011, published in Official Gazette No. 67/2011 and Decision U. No. 156/2010 of 26 February 2012, Official Gazette No. 34/2012.

²⁹⁴ SIGMA focus group interview, 5 May 2017.

²⁹⁵ Those who "tend to agree" or "totally agree" with the questions, "Do you agree that the judicial system is independent of political influence?".

Effectiveness of scrutiny of public authorities by independent oversight institutions

This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.

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

Sub-indicators	Points
Legal and institutional framework for oversight institutions	
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution	9/10
2. Legislative safeguards for the independence and adequate mandate of the SAI	9/10
3. Legislative safeguards for the independence of courts and judges	10/10
Effectiveness of and public trust in oversight institutions	
4. Implementation of ombudsman recommendations (%)	8/8
5. Implementation of SAI recommendations (%)	4/8
6. Perceived independence of oversight institutions by the population (%)	1/5
7. Trust in oversight institutions by the population (%)	2/5
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%)	2/5
Total²⁹⁶	45/61

Functioning mechanisms are in place to protect both the general interests of the public and the rights of the individual to good administration. Although the judicial system is formally independent from political interference, citizens tend not to trust the Ombudsman, the SAO or the courts, considering them not free from political influence in practice.

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

The system of resolving administrative disputes is built on the principle of compulsory internal administrative review. The system of internal administrative appeal instituted by the LGAP²⁹⁷ consists roughly of a general appeal body – the Second Instance Commission²⁹⁸ – and of specialised administrative appeal bodies created by laws in specific fields of public administration, such as public procurement.

The appeal procedure is comparatively simple: upon receiving an appeal to an administrative body's decision, the first instance appellate body (for example, a ministry if the case concerns one of its subordinate bodies) sends the case back to the administrative body for reconsideration (called internal review). To avoid sending cases back and forth continuously, the Second Instance Commission must decide the case on merit if the case is being considered by it for the second time, reject the appeal or confirm the first-level administrative decision.

²⁹⁶ Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-61=5.

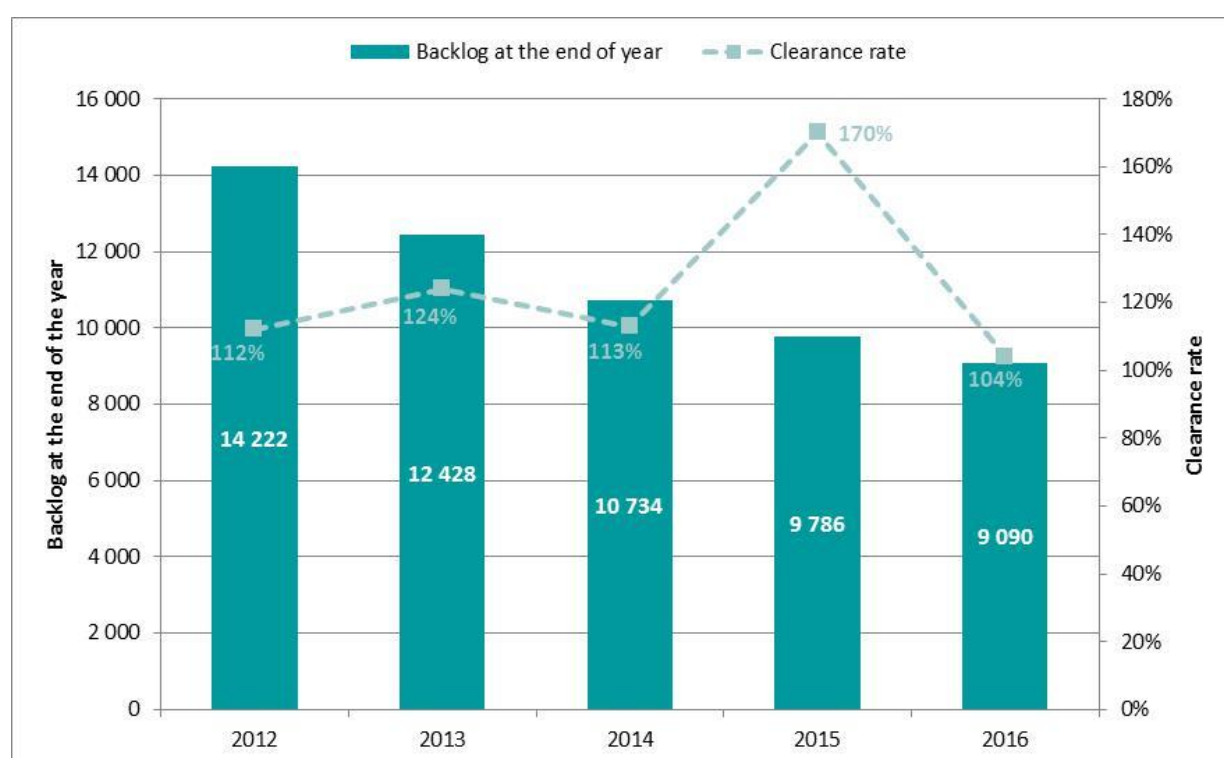
²⁹⁷ Official Gazette No. 124/2015.

²⁹⁸ Law on Establishing State Commission for Resolution of Second-Instance Administrative and Employment Proceedings, Official Gazette Nos. 51/2011, 148/0213, 41/2014, 130/2014 and 53/2016.

Final administrative decisions no longer subjected to internal review may be disputed in the Administrative Court according to the LAD²⁹⁹, and minor offences are also subject to administrative dispute. The LAD grants persons (both natural and legal) ample opportunities to have administrative decisions reviewed judicially, and sets a general time limit (30 days) to initiate a case against the administration; it also stipulates rather short deadlines for court decisions after hearings. The administrative court system is comprised of the Administrative Court in Skopje and the Higher Administrative Court as the appeals court. Both courts are staffed with a satisfactory number of judges and support staff and perform efficiently; according to data available since 2012, the Administrative Court has had a clearance rate of over 100% every year since 2012 and the backlog of cases has been declining year on year (Figure 2).

Judges in both administrative courts have established a certain level of specialisation within their courts, raising the efficiency of adjudication. However, the average handling time of cases has increased from 254 days in 2014-2015 to 280 days in 2016³⁰⁰.

Figure 2. Clearance rate of the Administrative Court in Skopje.



Source: Annual reports of the Administrative Court.

The courts use an electronic case management system (ACCMIS) that does not yet guarantee interconnection or document exchange with other state institutions involved in administrative disputes.

Court fees are not so high as to restrict access to the administrative court system, especially because a number of exemptions from state fees are available. However, both parties to cases are responsible for their own expenses and winners do not receive compensation for expenditures, which can be prohibitively high and discourage many parties from turning to the courts.

The judiciary's greatest problem, and likely part of the reason for low public trust (30%)³⁰¹, is enforcement of court rulings. Courts usually avoid initially resolving cases based on merit, and only

²⁹⁹ Official Gazette Nos. 62/06 and 150/10.

³⁰⁰ Draft PAR Strategy 2017-2021, p. 47.

³⁰¹ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

when dealing with the same case for the second time will they use this method.

The value for the indicator 'Fairness in handling of administrative judicial disputes' is 4.

Fairness in handling of administrative judicial disputes						
This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes. It covers the main criteria for an effective judiciary in efficiency, quality (including accessibility) and independence. Outcomes, in terms of case flow and public perceptions of independence are also measured.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework and organisation of the judiciary	
1. Adequacy of the legislative framework for administrative justice	3/6
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	2/2
6. Organisation of judges handling administrative justice cases	4/5
Performance of the administrative justice system	
7. Perceived independence of the judicial system by the population (%)	1/5
8. Calculated disposition time of first-instance administrative cases	3/5
9. Clearance rate in first-instance administrative courts (%)	5/5
10. Cases returned for retrial by a higher court (%)	5/5
Total³⁰²	30/40

A system of internal administrative appeals and judicial review of administrative acts is in place. The administrative courts are efficient in processing cases and reducing backlogs, but the limited number of decisions on merit and delays in the enforcement of court rulings reduce public trust in the court system.

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

The LGAP stipulates the accountability of all state administration bodies for damages caused by illegal actions or by illegally refusing to take action. However, it is not the LGAP that specifies a procedure for seeking compensation, the types of compensation available or the criteria for its calculation, but the Law on Obligations (LO), part of the private law. The Law stipulates that anybody is entitled to compensation from the person who has caused damage on purpose or out of negligence. It also defines what kind of damage – physical, non-physical or loss of earnings – is subject to compensation.

The right to request compensation for damages caused by the administration is also referred to in very general terms in the LAD, Article 11. At the same time, Article 40 of the LAD stipulates that the court shall instruct complainants to request damage compensation through a litigation procedure or in civil court according to the Law on Litigation. The Law on Administrative Servants, Chapter XIII, deals with material liability of the administrative servants, caused intentionally or due to negligence to the body he/she works for.

³⁰² Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-27=3, 28-34=4, 35-40=5.

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There is no data on the practical implementation of the right to compensation for any wrongdoing by the state administration. Data on public liability requests and their results are not available. According to the MISA, parties rarely use this mechanism, and then only in cases in which they have suffered major material damages.

The draft PAR Strategy 2017-2021 presented to SIGMA during the assessment contains a plan to develop new legislation on state liability, for which the Ministry of Justice would be responsible.

The value for the indicator 'Functionality of the public liability regime' is 2.

Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework for public liability	
1. Comprehensiveness of the scope of public liability	1/1
2. Coverage of the public liability regime to all bodies executing public authority	1/1
3. Non-discrimination in seeking the right to compensation	1/1
4. Efficiency and fairness of the procedure for seeking compensation	3/3
Practical implementation of the right to seek compensation	
5. Application of the public liability mechanism in the court in practice	0/3 ³⁰³
6. Proportion of entitled applicants receiving payments	0/3 ³⁰⁴
Total ³⁰⁵	6/12

The general principle of public liability is set out in the LO, the LAS and the LGAP. Compensation is to be sought through the civil courts once the administrative court has decided to annul the disputed administrative act. Data on state compensation for damages is not available, making it impossible to assess its functioning in practice.

Key recommendations

Short-term (1-2 years)

- 1) The Government should aim to review the overall structure of the state administration within the framework of the PAR Strategy 2017-2022 and prepare amendments to laws and regulations to ensure that all administrative bodies are subject to a uniform mechanism of institutional accountability, established by the LOOSAB, and that the criteria for determining the forms of state administration entities are clear.
- 2) The Parliament should consider transferring responsibility for supervision of certain agencies to the Government.
- 3) The Government should strengthen the role of the Commission for Protection of the Right to Free Access to Public Information in monitoring the implementation of laws concerning access to public

³⁰³ Data not provided.

³⁰⁴ Ditto.

³⁰⁵ Point conversion ranges: 0-2=0, 3-4=1, 5-6=2, 7-8=3, 9-10=4, 11-12=5.

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information and imposing sanctions. The Government should create a mechanism for monitoring and enforcing the Law on the Use of Public Sector Data, to ensure that more institutions disclose data.

Medium-term (3-5 years)

- 4) The Office of the Prime Minister, with support from the MISA, should develop a uniform and comprehensive performance management scheme for state administration, including setting objectives and targets for all state administration bodies, and establishing mechanisms of accountability for results.
- 5) The Ministry of Justice, in collaboration with the administrative courts and the Judicial Council, should review the current system of administrative appeals with the goal of eliminating obstacles to the timely handling of administrative cases. It is also of crucial importance to strengthen the legal guarantees for effective enforcement of court rulings, and to create a new, more liberal Law on Free Legal Aid.
- 6) The Government should create a mechanism to monitor court cases that result in the liability of public bodies, with the goal of improving administrative procedures and decisions to reduce public liability cases in the long term.



SERVICE DELIVERY

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

1.1. State of play

Since expiration of the Public Administration Reform (PAR) Strategy 2010-2015, which contained a chapter on developing administrative procedures and services, there has been no government-wide strategy for service delivery. The Ministry of Information Society and Administration (MISA), responsible for service delivery, has operated based on its Strategic Plans for 2015-2017³⁰⁶ and for 2016-2018, both of which address the service delivery area to a limited extent only. The lack of political backing from the Government, and therefore cross-governmental commitment to service delivery improvement, effectively restricts the MISA's ability to guide reforms in this area.

Nevertheless, the MISA keeps following its original agenda for PAR and digital government reform, and is supported primarily by European Union (EU)-funded technical assistance. An interoperability framework has been put in place, enabling data exchange among nine government bodies.

Despite legal obligations, the law-making process has been impacted by a lack of political direction and diligence. The quality of Regulatory Impact Assessment (RIA) has further deteriorated due to low levels of compliance with set procedures, and in 2015 RIAs had not been conducted for 59% of draft legislation submitted to the Government³⁰⁷.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement³⁰⁸ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

Due to the general political stalemate, there have been no significant changes since 2015 other than adoption of a new Law on General Administrative Procedures³⁰⁹ (LGAP). The new LGAP became effective in August 2016 and reflects all principles of good administrative behaviour, such as legal certainty, access to information, transparency, predictability, proportionality and service orientation, including a 'data only once' policy³¹⁰. Subsequently, 169 special laws were harmonised with the new LGAP by the end of March 2016³¹¹.

The MISA has developed an interoperability framework, consisting of semantic, organisational and technological interoperability, applicable to all levels for data exchange. So far, 22 institutions have become part of the framework, 9 as active users providing and receiving information³¹². The MISA has also compiled an initial database of administrative services, based on 28 laws, to serve as a source of information for further administrative simplification.

Furthermore, the MISA has developed a draft PAR Strategy for 2017-2022 containing a chapter on administrative service delivery and information and communications technology (ICT) support to the administration, but it has not yet been finalised.

³⁰⁶ The MISA Strategic Plan for 2015-2017, August 2014.

³⁰⁷ See Figure 1 under Principle 1 below.

³⁰⁸ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

³⁰⁹ Official Gazette No. 124/2015.

³¹⁰ SIGMA assessment of the draft LGAP, February 2015.

³¹¹ MISA interview, April 2017.

³¹² Ditto.

Public service accessibility for businesses has continued to improve. Successful provision of business-oriented services through one-stop shops, intermediaries and digital channels is testified to in business satisfaction surveys, which disclose the second-highest administrative services satisfaction rate in the Western Balkan region: 56% of respondents are mostly or completely satisfied³¹³. The World Bank *Doing Business 2017* report confirms this information, citing that it is very easy to start a business (the country is ranked 4th of 189 countries in the World Bank's global ranking), to declare and pay corporate taxes (9th), and to apply for construction permits (11th)³¹⁴. A new, fully digital application and processing process for construction permits has been put into operation.

However, there has not been discernible progress in improving service delivery for citizens. Territorial coverage is good, mobile offices for some key administrative services are provided to facilitate access for people in remote areas or during peak times, and citizens' overall satisfaction with administrative services delivery is 41%³¹⁵. Nevertheless, citizens do not benefit from the same procedural ease as businesses do, as only a few institutions – such as the Public Revenue Office (PRO)³¹⁶ – offer electronic services. Also, citizen motivation to use the existing e-services is low, partly due to high annual fees for electronic signature use³¹⁷, and they therefore conduct most administrative procedures in person. Accessibility for users with special needs – despite a satisfactory regulatory framework in relevant legislation – is inconsistently implemented and insufficiently monitored.

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

Compared with the SIGMA 2015 Baseline Measurement Report³¹⁸ and the Monitoring Report of May 2016³¹⁹, this assessment finds that, due to the overall political stalemate, the Government has shown little commitment to improving the quality of service delivery, both in person and online. There has been no follow-up strategy to the PAR Strategy 2009-2015, thus no comprehensive cross-governmental plan of action. Although the MISA has piloted an initial version of a service inventory, the overall value for the qualitative indicator measuring “the extent to which citizen-oriented policy for service delivery is in place and applied” has decreased.

The absence of a strategy following expiration of the PAR Strategy 2009-2015 has also had a negative impact on the collective level of digitalisation, as there is no strategic direction for the development and delivery of digital services. This is reflected in the value of zero for the qualitative indicator on “the extent to which policy and administrative preconditions for e-service delivery are applied”.

The MISA's Strategic Plan 2016-2018 contains many ambitious initiatives, but it remains a plan that has been developed, issued and led mainly by a single ministry, therefore lacking the authority of a horizontal strategy demonstrating the Government's agreement and commitment to improving service delivery.

In adopting the new LGAP and subsequently harmonising 169 special laws, the country put in place a leading piece of legislation on good administration. Consequently, the value for the qualitative indicator measuring “the extent to which the legal framework for good administration is in place and applied” has increased from 2 to 3.

³¹³ RCC (Regional Cooperation Council Secretariat) (2017), *Balkan Barometer 2017*, RCC, Sarajevo.

³¹⁴ World Bank Group (2017), *Doing Business 2017*, International Bank for Reconstruction and Development/World Bank, Washington, DC.

³¹⁵ Respondents mostly or completely satisfied; Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>.

³¹⁶ For filing of personal tax reports.

³¹⁷ Equivalent to EUR 50 for the first year and EUR 25 thereafter.

³¹⁸ OECD (2015), *Baseline Measurement Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris

³¹⁹ OECD (2016), *Monitoring Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris.

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Overall reporting and statistics for measuring the quality of service delivery also lag behind the previous SIGMA assessment in 2016.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports³²⁰

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which citizen-oriented policy for service delivery is in place and applied.	2	1
	Extent to which policy and administrative preconditions for e-service delivery are applied.	3	0
	Extent to which the legal framework for good administration is in place and applied.	2	3
Quantitative	Expenditure on general public services as a share of gross domestic product.	4.4% ³²¹	3.7% ³²²
	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	49.1% ³²³	51.8% ³²⁴
	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.	7-10 days ³²⁵	7-10 Days

³²⁰ OECD (2015), *Baseline Measurement Report: the Former Yugoslav Republic of Macedonia*, OECD Publishing, Paris, [Baseline Measurement Report: The former Yugoslav Republic of Macedonia](#)

³²¹ Ministry of Finance.

³²² Ministry of Finance data, e-mail from 28 June 2017.

³²³ According to the MISA, eight central institutions are certified to use the Common Assessment Framework (CAF) and 47 to use International Organization for Standardization (ISO) standards. The total reference number of state administration bodies is 112.

³²⁴ Data not collected by the administration.

³²⁵ Ministry of Internal Affairs; 15 days is the legal deadline.

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Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	16.1% ³²⁶	Not available ³²⁷
Average number of days needed to set up a business.	2 days ³²⁸	2 days ³²⁹
Average cost of setting up a business ³³⁰ .	0.6%	0.1%
Share of citizens who submitted paperless/electronic/digital personal income tax statements last year.	Not available ³³¹	0.49% ³³²
Share of companies that sent their tax declarations using the Internet.	Not available ³³³	100% ³³⁴

³²⁶ Eighteen institutions out of 112. Collection of opinions was done through the 'citizen journal', the e-services portal and scoreboards.

³²⁷ Different monitoring methods and lack of actual reporting make judging progress difficult.

³²⁸ According to World Bank, *Doing Business 2014* data.

³²⁹ According to World Bank, *Doing Business 2017* data:
<http://www.doingbusiness.org/data/exploreeconomies/macedonia-fyr#starting-a-business>.

³³⁰ The percentage of income per capita, according to World Bank, *Doing Business 2017*.

³³¹ SIGMA was provided with the data on the percentage of tax declarations sent through the Internet, but the data encompassed a number of declarations and not only personal income tax annual returns. The value for 2013 was 0.58%. Information received from the PRO.

³³² Data from the PRO provided on 18 September 2017.

³³³ SIGMA was provided with the data on the percentage of tax declaration sent through the Internet, but the data encompassed a number of declarations and not only corporate income tax annual returns. The value for 2013 was 38.78%. Information received from the PRO.

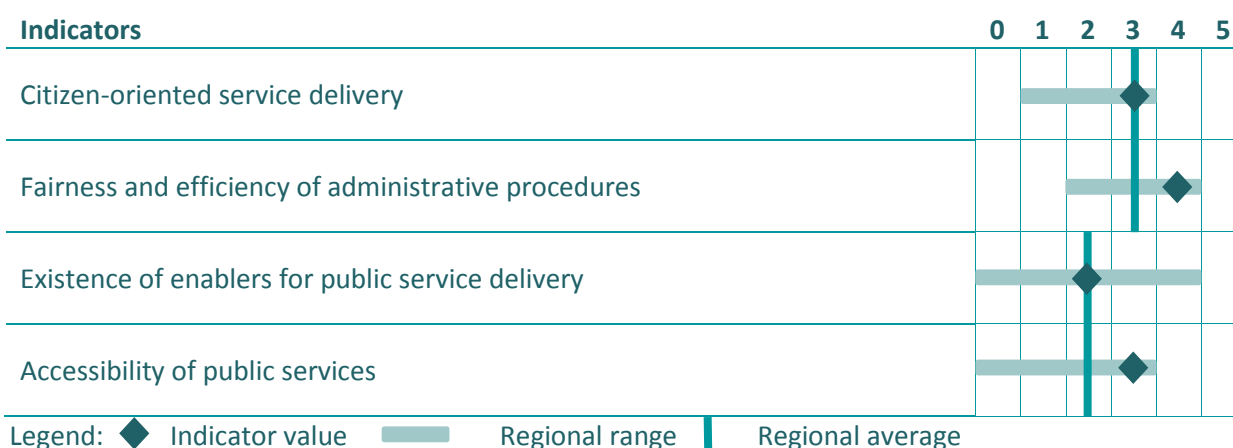
³³⁴ All VAT-registered businesses must provide data in electronic form.

2. ANALYSIS

This analysis covers four Principles for the service delivery area grouped under one key requirement. It includes a summary analysis of the indicator used to assess against each Principle, including sub-indicators³³⁵, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

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



Analysis of Principles

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

There is currently no comprehensive policy in place for improvement of service delivery. The main strategic document in this area, the PAR Strategy 2010-2015, is outdated, and the new PAR Strategy 2017-2022 prepared by the MISA has not been finalised.

The current institutional set-up places the MISA as the main agent of public sector reform. The MISA is tasked by law with setting and promoting the Government agenda in a wide range of areas³³⁶, and with steering service delivery reforms as part of public administration reforms. The MISA does not, however, have a unit in place dealing specifically with PAR, nor with service delivery. Furthermore, considering that only 80 of its 202 employees are working in the Ministry's headquarters³³⁷, its resources are stretched to the limit. Consequently, the MISA does not guide or support other government institutions in service delivery improvement, and projects in this area are few. Finally, there is also no effective co-ordination mechanism at the political level to guide and monitor progress in service delivery.

³³⁵ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

³³⁶ Policy making in the areas of information society, ICT, telecommunications and broadcasting, human resource management in the public services, training and capacity building, RIA compliance and quality, digital government, and local government digitalisation. It should also guide public bodies in implementing the LGAP.

³³⁷ 122 MISA staff work in the regions on IT support.

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The MISA provides more comprehensive assistance with digital government: in May 2015, it tabled a Short-Term ICT Strategy for 2016-2017³³⁸ and issued a Strategic Plan for 2016-2018³³⁹ containing government modernisation and digitalisation initiatives, used mainly as an internal guideline for further developing digital service delivery. The strategy was supported by an Action Plan that detailed 36 chapters of activities, and service delivery via digital channels was integrated into the By-law for Certification of Information Systems issued in August 2016³⁴⁰. However, a government-wide strategy for digital service delivery is still not in place and there is no central co-ordination of ICT projects or central monitoring of digital services.

Although the MISA paid attention to administrative simplification in the course of harmonising special legislation with the LGAP, there is no explicit plan for administrative simplification. Guidelines for RIA are in place, but due to the Government's extensive use of extraordinary procedures in preparing legislation, RIA is not applied in line with legal requirements. A MISA report for 2015 shows that 41% of draft laws included an RIA report, 24% complied with consultation rules, such as publication and consultation via the National Electronic Registry of Legislation (known as ENER), and 14% requested the mandatory opinion by the MISA³⁴¹. Interviews with non-governmental organisations (NGOs)³⁴² confirm the low level of public engagement, which is also documented in ENER³⁴³ statistics for 2016, demonstrating a lack of public consultations.

³³⁸ The MISA, Short-Term ICT Strategy for 2016-2017.

³³⁹ The MISA Strategic Plan 2016-18.

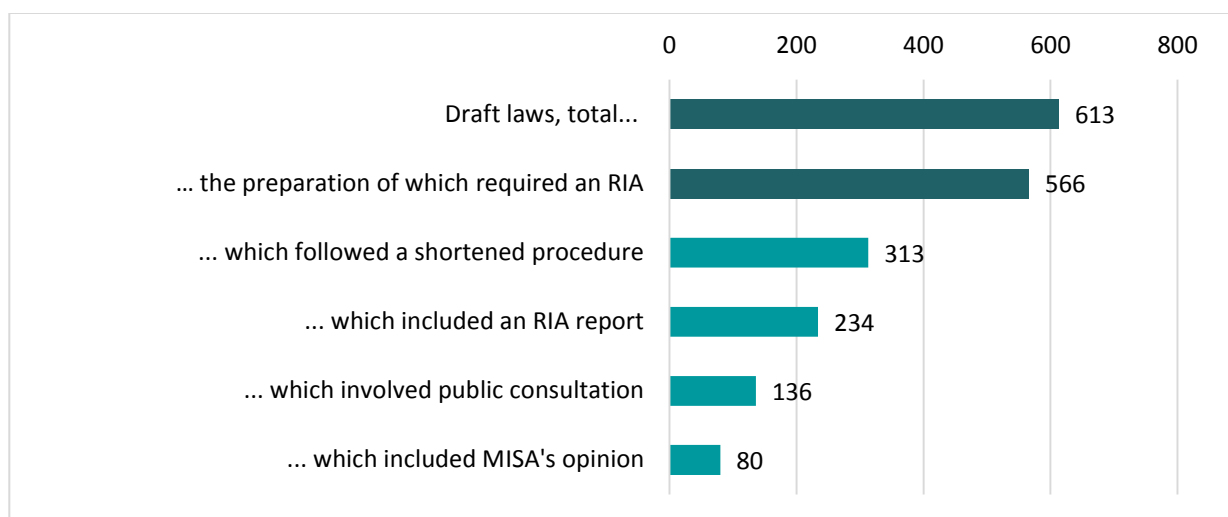
³⁴⁰ Ditto.

³⁴¹ See Figure 1.

³⁴² <http://www.ogledalonavladata.mk/>

³⁴³ <https://ener.gov.mk/>

Figure 1. Legal drafting activity 2015



Source: Ministry for Information Society and Administration.

There is a significant difference between the e-services available to businesses and those available to citizens. Businesses benefit from being highly digitalised, with access to online services for company registration, construction permits, customs declarations, value-added tax (VAT) and corporate income tax (CIT) payments, and annual filing of balance sheets. The most recent successful development was digitalisation of the entire construction permit applications and processing system, provided by the Association of the Units of Local Self-Government (ZELS) and involving all 80 local self-governments and the City of Skopje. However, closing companies remains burdensome and time-consuming, usually taking more than 600 days.

The 2017 Balkan Barometer survey³⁴⁴ of the population in the country shows that 44% of respondents are satisfied with administrative services for businesses and 56% of respondents are satisfied with digital services for businesses. Citizens rely on a relatively dense network of service points throughout the country for their main interactions with public offices and, in remote locations, the Ministry of Interior (Moi) and the PRO provide regular mobile services. 48% of respondents who have been in contact with central government services are mostly or completely satisfied with them, ranking second highest in the Western Balkan region.

The value for the indicator 'Citizen-oriented service delivery' is 3.

³⁴⁴ Balkan Barometer, annual survey conducted by the Regional Cooperation Council (RCC), <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>, <http://www.rcc.int/seeds/results/3/balkan-business-barometer>. "Satisfied" covers the responses "tend to be satisfied" and "strongly satisfied" to the questions, "How satisfied are you with public services for businesses?"; "How satisfied are you with digital services currently provided by the public administration for businesses?"; and "How satisfied are you with administrative services from central government?".

Citizen-oriented service delivery					
This indicator measures the extent to which citizen-oriented service delivery is defined as a policy objective in legislation or official government plans and strategies. It furthermore measures the progress of implementation and evaluates the results achieved, focusing on citizens and businesses in the design and delivery of public services.					
Implementation and results are evaluated using a combination of quantitative and perception-based metrics.					
Overall indicator value	0	1	2	3	4 5

Sub-indicators	Points
Policy framework for citizen-oriented service delivery	
1. Existence and extent of application of policy for service delivery	2/8
2. Existence and extent of application of policy for digital service delivery	2/8
3. Existence of central co-ordination for digital government projects	2/4
4. Established policy for administrative simplification	6/12
Performance of citizen-oriented service delivery	
5. Perceived quality of public service delivery by citizens (%)	2/6
6. Renewing a personal identification document	1.5/6
7. Registering a personal vehicle	3/6
8. Declaring and pay personal income taxes	2.5/6
9. Perceived quality of public service delivery and administrative burdens by businesses	3.5/6
10. Starting a business	6/6
11. Obtaining a commercial construction permit	4/6
12. Declaring and pay corporate income taxes	6/6
13. Declaring and pay value added taxes	6/6
Total³⁴⁵	46.5/86

Since expiration of the PAR Strategy 2009-2015, no new long-term vision or action plan has been instituted for service delivery improvement across the public administration, nor is a policy for digital service delivery in place. Administrative simplification was applied in harmonising laws with the LGAP, but efforts to limit additional administrative burdens have been undermined by non-compliance with RIA instructions. The institutional set-up for service delivery reforms remains scattered: MISA is formally charged with co-ordination, but its limited resources and powers prevent the horizontal application of its agenda. A relatively solid legal framework for digital governance is in place, but its inconsistent application has resulted in wider digitalisation of services for businesses than for citizens.

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

The LGAP of July 2015, which came into force in August 2016, adequately supports the rights of the parties who are part of the administrative procedure. One of the new elements of the Law simplifies procedures for citizens and businesses by requiring that government bodies seek previously collected information from other government bodies before requesting it from the party concerned ('data once only' policy). Civil servants missing stipulated deadlines or failing to provide evidence *ex officio* on

³⁴⁵ Point conversion ranges: 0-14=0, 15-28=1, 29-42=2, 43-56=3, 57-70=4, 71-86=5.

behalf of a public office can be fined a minimum of EUR 25 (MKD 1 562) for each event, as defined in material legislation referring to the LGAP³⁴⁶. Although ‘administrative silence’ of the first-instance authority does not imply consent, but rather provides the right to turn the case over to the second-instance authority, many material laws maintain the ‘silence means consent’ practice to a large extent, based on the former LGAP of 2011. This is the case with construction permits, for example: if any of the involved authorities miss the five-day review deadline, their approval is assumed³⁴⁷.

Although the new LGAP also covers administrative acts of general interest, it does not provide explicit rules for involving non-government stakeholders when taking such administrative decisions. Even during drafting of the LGAP, the Government did not actively pursue wide consultations with NGOs or the public³⁴⁸.

The LGAP is meant to limit special administrative procedures to the minimum and explicitly opens the door to special regulation of particular institutes in a limited number of articles³⁴⁹. Impacts of the new LGAP and harmonisation of the 169 special laws on administrative effectiveness are difficult to judge based on less than 9 months’ applicability. The MISA has not provided significant support to public agencies to implement the new LGAP, for example in the form of training. Neither has there been a campaign to increase public awareness.

When consulted by SIGMA, experts from academia, business organisations and NGOs expressed concern about the effectiveness and fairness of administrative procedures. The experts did not point to any areas as being especially strong or weak, rather that they are in need of improvement. However, the 2017 Balkan Barometer survey results indicate a 55% overall satisfaction level for citizens’ perception of the efficiency of administrative procedures, which is quite high in comparison with the region.

Therefore, the value for the indicator ‘Fairness and efficiency of administrative is 4.

³⁴⁶ Such as the Law on Establishment of the State Commission for Second Instance and Employment Proceedings (part dealing with Appeal Procedure). Fines are defined in EUR.

³⁴⁷ Ministry of Transport and the ZELS joint meeting on e-services, April 2017.

³⁴⁸ MISA interview, April 2017.

³⁴⁹ Comparative study “Legal Remedies in Administrative Procedures in Western Balkans”, by the Regional School of Public Administration.

Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legal framework for administrative procedure	
1. Existence of legislation on administrative procedures of general application	3/3
2. Adequacy of law(s) on administrative procedures to ensure good administration	7/7
Fairness and efficiency of administrative procedures	
3. Perceived efficiency of administrative procedures in public institutions by citizens (%)	3/4
5. Repeals of or changes to decisions of administrative bodies made by the administrative courts (%)	0/4 ³⁵⁰
Total³⁵¹	13/18

The new LGAP, adopted in 2015 and in effect since August 2016, takes international standards and numerous SIGMA recommendations into account. While 169 material laws were harmonised with the LGAP, consultations with civil society on administrative decisions with general impacts are infrequent.

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

Due to the statutory requirement of the Law on the Introduction of a System of Quality Management, quality management frameworks are widely applied among the institutions in the form of ISO 9001 and Common Assessment Framework (CAF) models. In 2017, there were 37 reported CAF users and 101 owners of or applicants for ISO certificates, including non-executive bodies³⁵².

³⁵⁰ No data provided.

³⁵¹ Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

³⁵² MISA information, 28 July 2017.

Table 2. Application status of ISO 9001 and CAF quality management models.

Central government institution	December 2014		December 2015	
	CAF	ISO	CAF	ISO
Ministry of Information Society and Administration	Yes	Yes	Yes	Yes
State Statistical Office	Yes	No	Yes	No
Ministry of Education and Science	Yes	Yes	Yes	Yes
Ministry of Transport and Communications	Yes	Yes	Yes	Yes
Ministry of Social Politics and Labour	Yes	Yes	Yes	Yes
Ministry of Agriculture, Forestry and Water Economy	Yes	Yes	Yes	Yes
Ministry of Economy	Yes	Yes	Yes	Yes
State Commission for Prevention of Corruption	Yes	No	Yes	No
Secretariat for European Affairs	No	No	Yes	Yes
Agency for Administration	No	No	Yes	No

Source: Data on those bodies applying both tools, from the Ministry for Information Society and Administration, SIGMA compilation.

The latest available status on quality management tools among central government institutions is presented in Table 2 above; according to the MISA, no further statistics are available for the reporting period. This information does not, however, permit conclusions to be drawn on whether the initiatives are continuously sustained by the government institutions, or if the quality management models have been applied repeatedly to attain continuous improvements and feedback on performance.

The Government adopted a 'quality barometer' methodology in 2013³⁵³, which is applied internally by some of the public institutions that have a high number of service interactions. However, the quality barometer survey and the subsequent quality award campaign were most recently conducted in 2014 with no follow-up, and the 'mystery shopper' methodology has also not been applied since 2014. Consequently, there is no central monitoring in place to assess citizen satisfaction with service delivery, nor the spread of the quality barometer technique. The impact of these measures on improving overall service quality has therefore been limited.

The 'user feedback' technique based on semaphore methodology was introduced at the same time. The results are based on a limited subset of institutions, which nevertheless reveal a relatively high level of satisfaction with service delivery generally (82.4%), but make the results of the tool rather unrepresentative (see the limited number of public agencies in Table 3).

³⁵³ Law on Introduction of a System of Quality Management and Common Framework for Assessment, Official Gazette No. 69/2013, with subsequent amendments.

Table 3. Analysis of customer satisfaction in selected institutions 2016

	Satisfied %	Dissatisfied %	Neutral %	TOTAL feedback
Employment Agency – Skopje	93.13	4.81	2.06	6 649
Agency for Real Estate – Bitola	87.73	7.95	4.32	4 212
Agency for Real Estate – Ohrid	91.36	6.34	2.29	3 578
Agency for Real Estate – Stip	92.78	4.76	2.46	1 870
Clinical hospital Dr. Trifun Panofsky – Bitola	75.91	19.27	4.82	5 605
Ministry of Interior – Skopje	56.58	36.02	7.40	5 691
Ministry of Transport and Communications – road transport sector	88.12	9.57	2.31	951
Health Insurance Fund – Bitola	86.23	10.10	3.67	2 673
Health Insurance Fund – Ohrid	90.17	7.54	2.29	1 658
Health Insurance Fund – Skopje	80.85	14.76	4.39	10 236
Central Registry – Skopje	88.43	9.20	2.37	4 520
TOTAL	82.44	13.67	3.89	47 643

Source: the Ministry for Information Society and Administration.

A pilot catalogue of acts regulating administrative services has been compiled for services from 28 laws, to complement the existing overview of public services accessible to the public from the central website for public services³⁵⁴. The purpose of such a catalogue is to further classify, compare and eventually harmonise service provision among different areas and institutions.

There are some outstanding models for e-service provision, such as the e-construction system³⁵⁵ for building permits and registering a business, as well as tax collection with a focus on commercial entities. Many other services, such as renewal of personal identification documents or car registration, are fast and elicit a relatively high level of customer satisfaction.

The MISA has made progress in defining and implementing interoperability standards and infrastructure³⁵⁶; this includes nomenclature of services as well as ICT-related standards for data storage and exchange. So far, there are 27 institutions providing 80 individual services linked to this new framework, out of which 9 basic registrants are active data exchange users. The rest suffer from database quality problems, preventing them from meeting the standards for data exchange. From the launch of the interoperability platform in May 2016 to April 2017, 2.27 million transactions had been made³⁵⁷.

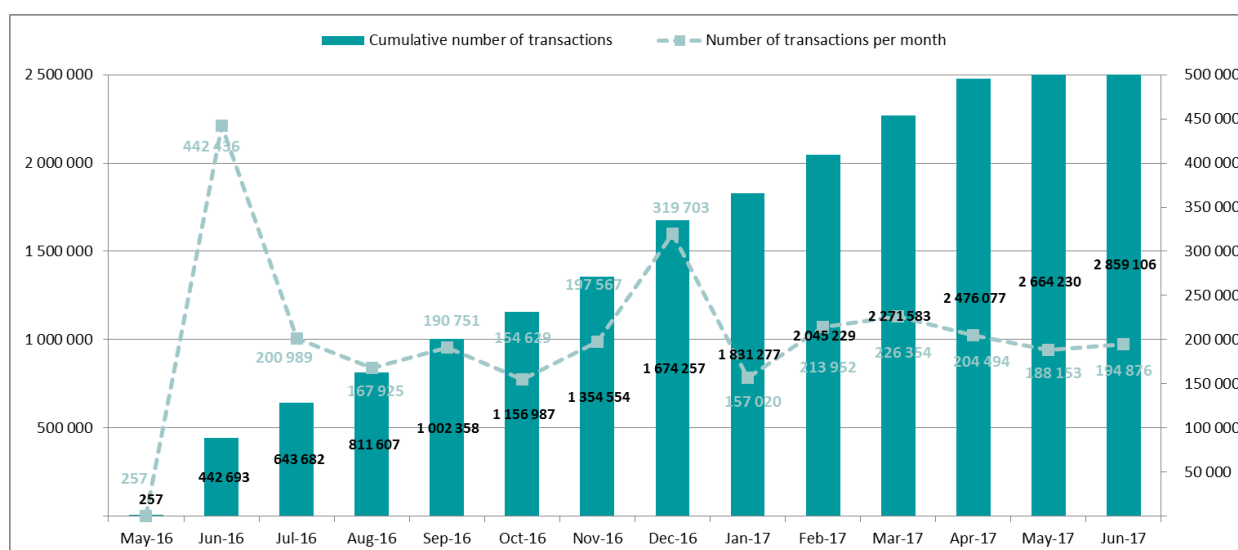
³⁵⁴ <http://www.uslugi.gov.mk>

³⁵⁵ www.gradezna-dozvola.mk, operated by the ZELS.

³⁵⁶ http://www.mio.gov.mk/files/pdf/Macedonian_Interoperability_Framework%20MIF_v2.0.pdf.

³⁵⁷ Information provided by the MISA.

Figure 2. Transactions utilising the interoperability platform



Source: Ministry for Information Society and Administration.

There is no smart ID card available for citizens, although the Health Fund had previously introduced one for its own services. Unfortunately, the services never materialised and the card is now to be replaced with a new one without smart-card functionality, demonstrating a lack of coherent strategy and weak co-ordination in providing convenient electronic authentication tools for all. The Law on Data and Electronic Signature, which established legislation on electronic signatures in 2008, underwent revision in 2015 and was widely accepted in the public administration. According to the Law, an ‘advanced electronic signature’ based on a qualified certificate and executed in relation to electronic data, is considered equivalent to a hand-written signature. Two local companies are listed as service providers, and the applicability and use of electronic signatures is high among businesses (practically 100% for VAT reporters), especially as an electronic format is mandatory for all tax declarations and payments, as well as for social security transactions. Their use by individuals is limited because the annual cost is relatively high, especially if compared to their potential of use, and the network of in-person service windows is convenient and accessible. For example, the PRO opens extra counters and extends office hours during the peak period to cope with a higher number of visits to its offices for submitting personal income tax declarations³⁵⁸.

The value for the indicator ‘Existence of enablers for public service delivery’ is 2.

³⁵⁸

Interview with the PRO.

Existence of enablers for public service delivery

This indicator measures the extent to which citizen-oriented service delivery is being facilitated by the existence and implementation of enabling tools and technologies, such as public service inventories, interoperability frameworks, digital signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using those tools and technologies to improve the design and delivery of public services.

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

Sub-indicators	Points
Central and shared mechanisms to better enable public service provision	
1. Central monitoring of service delivery performance	0/3
2. Interoperability infrastructure in place	2/3
3. Existence of common standards for public service delivery	1/3
4. Legal recognition and affordability of electronic signatures	1/3
Performance of central and shared mechanisms for public service delivery	
5. Use of quality management tools and techniques	3/4
6. Adoption of user engagement tools and techniques	2/4
7. Interoperability of basic registers	3/4
Total³⁵⁹	12/24

Applying CAF and ISO certification is a legal requirement that advances organisation-wide quality management; however, there is no effective cross-sectoral measurement of user experience in public service delivery, which limits the administration's ability to systematically identify burdensome services and redesign them. Most businesses take advantage of using a certified digital signature. Basic business-oriented services already existed, so the country scores highly in the relevant international rankings.

Principle 4: The accessibility of public services is ensured.

To give citizens and businesses equal territorial access to services, the largest service providers operate their own regional branches or share a municipality's facilities or another institution's premises. This is especially the case with institutions such as the Mol (e.g. for birth, marriage and death certificates available through its regional offices), the Ministry of Labour and Social Policy, the Agency for Employment, the Health Insurance Fund, the Pension and Disability Fund, the PRO, the Central Registry, the Real Estate Cadastre, and many others. Mobile PRO stations are available in remote locations for the collection of taxes and broadcasting fees, and for the Mol for issuing personal identification documents.

The legal framework addressing citizens with special needs is formally in place, but its practical implementation, including physical access to buildings as stipulated in the Law on Construction³⁶⁰, is poor. The braille writing system is not supported in public proceedings. Article 4 of the Law on Applicability of Sign Language³⁶¹ gives citizens the right to use sign language in public offices and in front of courts. Public offices claim to have staff educated to accommodate special needs, but not to the extent that sign language could be used without outside assistance. However, sign language interpreters and support persons may be requested by citizens for up to 30 days per year.

³⁵⁹ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

³⁶⁰ Law on Construction, latest amendment, Official Gazette No. 217/2015.

³⁶¹ Law on the Applicability of Sign Language, Official Gazette No. 105/09.

Service availability for businesses is definitely better than for citizens, owing to the Law on the One-Stop-Shop System³⁶², which makes services for establishing a business available through the Central Registry. Businesses also benefit from a network of intermediaries³⁶³ who, for example, assist start-up businesses with application procedures. The overall leaders in digital service delivery are the Central Registry, the Customs Administration, the PRO and the portal for applying for construction permits. The last is said to be one of the most advanced digital services on the market, clearly appreciated by businesses and private developers³⁶⁴: it has handled 40 000 applications so far, of which approximately 50% resulted in the issuing of a licence³⁶⁵. Other services, such as tendering for public licences by the Ministry of Economy, are semi-automated. All tax-related issues (CIT and VAT), as well as social security payments for businesses, have been exclusively web-based since 2013. Only self-employed people and micro businesses, which are not eligible for VAT registration, are still allowed to use paper-based declarations on an annual basis, which they mostly do. There are not, however, any country-wide statistics available on the number of transactions conducted throughout all government services and different channels. The percentage of citizens who delivered 2015 personal income tax declarations electronically is rather low, but when a person receives salary income from one source only, there is no need to submit a declaration at all.

According to the 2017 Balkan Barometer survey, while 35% of respondents were satisfied with public services across the territory of the country, 58% of citizens who had been in contact with central government services were satisfied with accessibility to public services via a digital channel – the highest figure in the whole Western Balkans region³⁶⁶.

The use of plain language is not promoted by central government. One of the consequences of this, about which NGOs have lodged complaints³⁶⁷, is that even decisions of first-instance authorities – and moreover of related appellate levels – are formulated in language that is too complex and thus not easily understood by the average citizen.

Concerning statistics on accessibility to public services, the State Statistical Office website³⁶⁸ provides data up to 2015 in Macedonian and English, based on Nomenclature of Territorial Units for Statistics (NUTS) 2, NUTS 3 and local administrative unit (LAU) 1 classifications, for example on lower secondary and upper secondary schools, healthcare and disabilities. Data is updated on a regular basis in accordance with the Five-Year Statistical Programme (2013-2017)³⁶⁹.

The 2010 By-law on Technical Requirements for Access to Electronic Administrative Services³⁷⁰ provides for general standards on quality and intuitive user interfaces, and in addition the MISA promotes the international Web Content Accessibility Guidelines³⁷¹ (WCAG) 2.0 AA standard³⁷². Still, the general graphical presentation and design of government institution webpages remain inconsistent and somewhat confusing. Actual government website test runs, which SIGMA performed for this

³⁶² Law on One-Stop Shop System, Keeping a Trade Register and Register of Other Legal Entities, latest amendment, Official Gazette No. 53/16.

³⁶³ Dedicated private service providers who may act on behalf of applicants.

³⁶⁴ Interview with Ministry of Transport and Communications, April 2017.

³⁶⁵ Interview with the ZELS.

³⁶⁶ Those who responded to the Balkan Barometer survey questions “How satisfied are you with public services in general?” and “How satisfied are you with accessibility to public services via a digital channel?” either ‘mostly satisfied’ or ‘completely satisfied’.

³⁶⁷ Focus group interview with various NGOs, 5 April 2017.

³⁶⁸ http://www.stat.gov.mk/PrikaziPublikacija_1_en.aspx?rbr=627 and <http://makstat.stat.gov.mk/PXWeb/pXweb/en/MakStat/?rxid=46ee0f64-2992-4b45-a2d9-cb4e5f7ec5ef>.

³⁶⁹ The MISA, 3 August 2017.

³⁷⁰ By-law on the Technical Requirements for Granting Access to Electronic Administrative Services and the Policy of the Provider of the IT System of 18 June 2010.

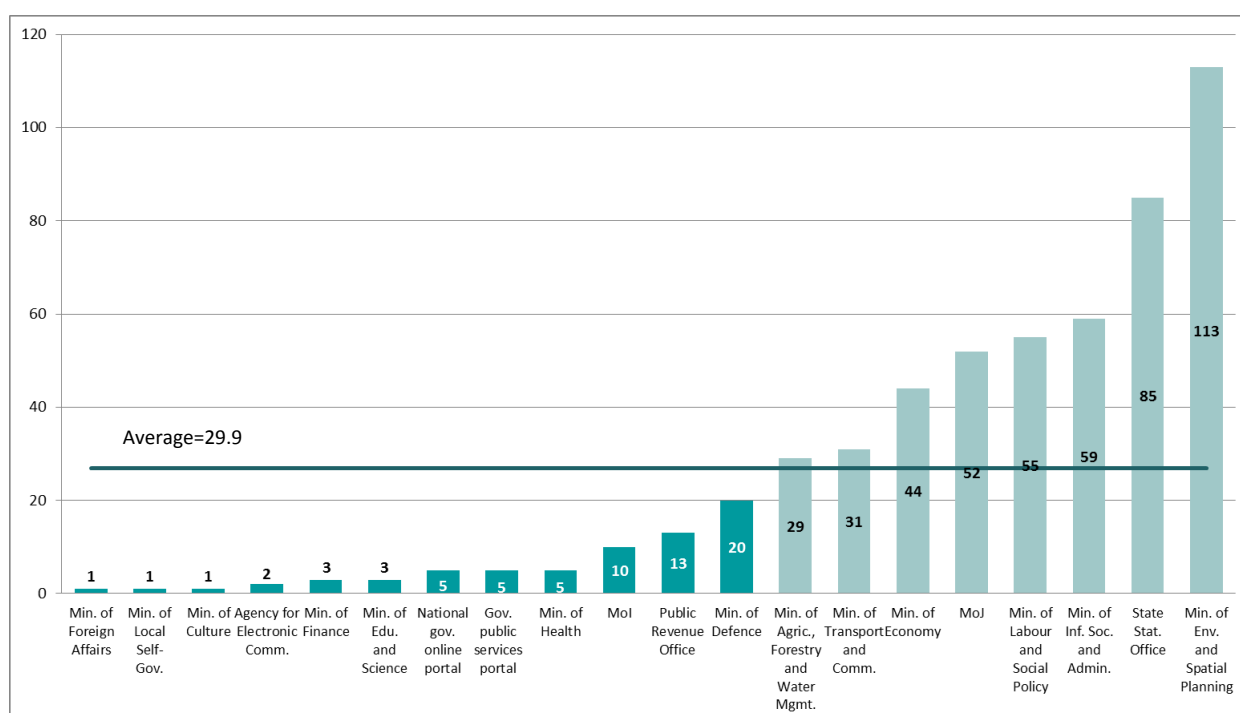
³⁷¹ See more: <http://www.w3.org/TR/WCAG20/>.

³⁷² <http://wcag.mioa.gov.mk/>.

report, show that there is much room for improvement, as 7 out of 20 institutions score zero according to WCAG 2.0 standards (Figure 3) and the average number of errors is twice as high as in Kosovo³⁷³ or Albania.

A related problem is that documents on public institution webpages are stored in scanned, therefore non-machine readable, Portable Document Format (PDF), meaning they are also non-searchable and without a read-aloud option for users with visual impairment. According to the Law on Public Sector Data Use³⁷⁴, institutions are obligated to publish open data in a computer-readable format in compliance with their technical capacities. In the Open Government Partnership Action Plan for 2016-2018 to which the country has subscribed, there is a commitment to prepare standards for information to be provided in open data format³⁷⁵. The open data portal³⁷⁶ of the Government provides more than 150 datasets to the public.

Figure 3. Government website compliance with Web Content Accessibility Guidelines (WCAG), 2017



Source: SIGMA tests of government website compliance with WCAG, April 2017.

The value for the indicator 'Accessibility of public services' is 3.

³⁷³ This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

³⁷⁴ Law on Public Sector Data Use of 5 February 2014, Official Gazette No. 27/2014.

³⁷⁵ See Open Government Partnership Action Plan 2016-2018, <https://www.opengovpartnership.org/documents/macedonias-third-national-action-plan>.

³⁷⁶ www.otvorenipodatoci.gov.mk.

Accessibility of public services

This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizen perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.

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

Sub-indicators	Points
Policy framework for accessibility	
1. Existence of policy for the accessibility of public services	2/3
2. Availability of statistical data on accessibility to public services	3/3
3. Adequacy of policy framework for public service users with special needs	3/4
4. Existence of common guidelines for government websites	1/2
Government performance on accessibility	
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)	1/3
6. Perceived satisfaction with public services across the territory by population (%)	1/3
7. Perceived accessibility of digital public services by population (%)	2/3
8. Perceived time and cost of accessing public services by population (%)	2/3
Total³⁷⁷	15/24

There has been a clear trend towards prioritising improvement in business-oriented service delivery compared with citizen-oriented service delivery. Businesses benefit from a network of intermediaries as well as an online one-stop shop for business start-up services. Citizens, however, do not have the same ease of access to public services; there is network of service providers across the country and some mobile service delivery units but there are no one-stop shops or notable digital services to significantly facilitate administrative matters.

Key recommendations

Short-term (1-2 years)

- 1) The MISA should collaboratively develop a comprehensive service delivery strategy, part of which (or closely linked) should be a government-wide ICT Strategy. The aim of the strategy should be to improve service delivery not only *for* citizens, but *with* them. The Strategy should clearly identify how the main needs and expectations of citizens would be agreed upon in collaboration, how more services would be directed towards digital channels and their use made convenient and affordable, and how efforts would be prioritised in a timely manner. Administrative simplification should be an overarching target.
- 2) The Government should review the set-up for service delivery modernisation, including digitalisation of public services, to match strategic goals with available resources. Within the MISA, improvement of administrative service delivery should be assigned to a specialised unit, and the Ministry should be responsible for monitoring progress against clearly defined key indicators for each service or institution, such as transaction volumes, digital uptake, cost per service and customer feedback.

³⁷⁷ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

- 3) The MISA should conduct a review of the existing inventory of government information systems, databases and registers, and address how they can be rationalised, their quality increased and the registers integrated into the common interoperability framework.
- 4) The MISA should instruct government institutions on the design and presentation of public information on government webpages. It should also enforce common web publishing guidelines based on WCAG standards and developed in collaboration with end users to ensure better selection and presentation of online content.
- 5) Implementation of the LGAP should be further supported by the MISA for continued harmonisation of legislation and simplification of practices across government institutions.

Medium-term (3-5 years)

- 6) The MISA should promote user orientation and design thinking in public administration. It should help build and share good practices for developing services, not only *for* users but *with* them. Public awards would help to showcase exceptional practices and their impacts.
- 7) The Government should strive for a more open, transparent and proactive administration by encouraging the sharing, rather than the withholding, of information. In addition to enforcing regulations, this should be facilitated by creating the right incentives, providing training, encouraging informal communities and sharing good practices.
- 8) The Government should enforce existing regulations to improve accessibility for users with special needs. It should be clear which body is the lead authority for monitoring and enforcing regulations for in person as well as digital services. Trials of new governance levers, such as 'naming and shaming' in public institutional accessibility reports, or compensating users in cases of non-compliance, should be conducted.



PUBLIC FINANCIAL MANAGEMENT

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

1.1. State of play

Budget management follows an annual process and the fiscal situation is broadly under control, but transparency in budget planning and execution is low. At present, the Fiscal Strategy³⁷⁸ does not meet the European Union (EU) requirements³⁷⁹ for a medium-term budgetary framework (MTBF). It was only submitted to the Parliament after the preparation of the draft annual budget and it contains no strategy allocation decisions across sectors or across budget organisations. Fiscal rules are not in place in legislation but are presented in the Fiscal Strategy.

The basic conditions for budget transparency are in place with monthly in-year reporting and the timely submission of the audited annual financial statement to the Parliament. However, there is room to improve the scope and extent of reporting.

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

The Public Procurement Law (PPL)³⁸⁰ covers both the classic and utilities sectors in considerable detail. The PPL is largely aligned with the EU *acquis*, but a number of major inconsistencies with the *acquis* may be found in the Law, including obligations for the use of the lowest-price award criterion, e-auctions and negative references. The PPL is not fully aligned with the new 2014 Directives³⁸¹, which inevitably increases the number of discrepancies with the *acquis*, in particular at the level of technical details. The legal framework for procurement in the defence sector, which is provided in the PPL, is not harmonised with the Defence Directive³⁸². The Law on Concessions and Public-Private Partnerships (C&PPP Law)³⁸³ is not harmonised with the Concessions Directive³⁸⁴. The public procurement system remains overly bureaucratic, characterised by a focus on formalities (such as prior approval and market analysis requirements) and a lack of emphasis on efficiency.

The system benefits from an advanced e-procurement platform (Electronic System for Public Procurement [ESPP]), which enhances transparency. The Public Procurement Bureau (PPB) assists contracting authorities and economic operators through its monitoring and day-to-day advisory and training activities. However, since September 2014, the PPB has been hampered in its regulatory and supervisory role by the absence of a duly appointed director. Very few public-private partnership (PPP) contracts have been awarded, and the Public-Private Partnership Council (PPP Council) is inactive.

³⁷⁸ <http://www.finance.gov.mk/en/node/771>.

³⁷⁹ Council Directive 2011/85/EU of 8 November 2011.

³⁸⁰ PPL, Official Gazette No. 136/2007, with subsequent amendments.

³⁸¹ Directive 2014/24/EU on Public Procurement and repealing Directive 2004/18/EC and Directive 2014/25/EU on Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and repealing Directive 2004/18/EC.

³⁸² Directive 2009/81/EC on the Co-ordination of Procedures for the Award of Certain Works Contracts, Supply Contracts and Service Contracts by Contracting Authorities or Entities in the Fields of Defence and Security and amending Directives 2004/17/EC and 2004/18/EC.

³⁸³ C&PPP Law, Official Gazette No. 42/93-1057, as amended.

³⁸⁴ Directive 2014/23/EU on the Award of Concession Contracts.

The Public Procurement Council (PPC), operational since May 2014, was set up to consider the applications of contracting authorities for prior approval, in particular with relation to the content of technical specifications. Some steps have been taken to improve the PPC approval process. However, the related market-research requirements and the prior approval process have no direct basis in the EU Directives. The PPC approval process still increases the complexity, delays and financial costs of the procurement process, without providing any clear evidence of benefits, such as significantly higher levels of competition in tenders.

The structure of the remedies system formally complies with the *acquis*, although the provisions of the Remedies Directives³⁸⁵ have not been transposed. Recent improvements have been made to the website of the procurement review body, the State Appeals Commission (SAC).

The legal framework and guidelines address the issues of integrity and conflicts of interest. However, no system for proactive contract management has been established, and no systematic review of contract performance is carried out.

The independence, mandate and organisation of the State Audit Office (SAO) are adequately provided for in the State Audit Law (SAL)³⁸⁶, but the SAO is not protected by the Constitution. Although the SAO has developed the institutional framework to produce audit reports that meet international standards, the Parliament only considers the SAO's annual report and many of its recommendations are not implemented, reducing the impact of its audit work.

1.2. Main developments

The following section describes key changes in the public administration for each key requirement³⁸⁷ and main developments, based on the indicators used in the SIGMA 2015 Baseline Measurement reports.

The Government adopted the Fiscal Strategy 2015-2017 later than envisaged by the organic Budget Law³⁸⁸ as a result of the continuing political situation. The constitutional reforms submitted to the Parliament in 2014, including the provision for fiscal rules capping the budget deficit at 3% of gross domestic product (GDP) and public debt at 60% of GDP, have still not been adopted by the Parliament. At the end of June 2017, the draft Public Financial Management Strategy was still being finalised, to be ready for endorsement at a political level in September 2017.

An EU Instrument for Pre-accession Assistance (IPA)-funded Twinning Project with Finland on medium-term budget planning is ongoing. The project plans to deliver a programme classification and alignment between the country's budget statistics and the European System of Accounts (ESA). The functional requirements for a new integrated treasury system have been identified and plans are in place for its implementation.

The PPL was amended twice in 2015, primarily in relation to the operation and establishment of the PPC as a separate legal entity, with effect from January 2016; it was subject to two sets of minor amendments in 2016. The utilities and defence sectors remain covered by the PPL. No changes were made to the C&PPP Law in 2016.

³⁸⁵ Remedies Directive 89/665/EEC for the public sector and Directive 92/13/EEC for the utilities sector, substantially amended by Directive 2007/66/EC.

³⁸⁶ SAL, adopted 6 May 2010, Official Gazette No. 66/2010.

³⁸⁷ OECD (2017), *The Principles of Public Administration*, OECD Publishing, Paris, http://www.sigmaweb.org/publications/Principles-of-Public-Administration_Edition-2017_ENG.pdf

³⁸⁸ Budget Law, Official Gazette Nos. 64/2005, 4/2008, 103/2008, 156/2009, 95/2010, 180/2011, 171/2012, 192/2015 and 167/2016.

The ESPP was upgraded in 2016. In 2016, e-auctions were used for 99.6% of all competitive procurement procedures as a result of statutory obligations requiring their use³⁸⁹. The use of e-procurement, which includes the publication of contract notices and procurement documents, e-submission, e-evaluation and e-auction, is increasing, in order to comply with statutory obligations requiring the increased use of e-procurement. In 2016, e-procurement was used for 48.1% of all competitive procurement procedures. The number of framework agreements awarded fell dramatically, however, compared with the previous assessment period (766 in 2013 compared with 245 in 2016). The use of centralised purchasing is limited.

The two main developments in the remedies system have been the lower average processing time of decisions and the improved search facilities on the SAC website, introduced in 2016. Decisions can now be searched for online through a number of search criteria, although a free-text search facility is still not available.

Except for the entry into force of the Law on Public Sector Employees and the Law on Administrative Servants, which have transformed the status of the SAO auditors into administrative officers, no fundamental changes in the legislative framework or in the independence of the SAO are evident. The constitutional amendment stipulating that the SAO is an independent body for the audit of public funds is still awaiting parliamentary approval.

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

There has been little change in the situation since 2015. This is reflected in the unchanged indicator values in the table below. Preparation of both the Fiscal Strategy and annual budget follow the same procedures and are guided by the same legislation. Weaknesses identified in 2015 are still present in 2017. The constitutional amendments that were outstanding in 2015, including the adoption of fiscal rules, remain so in 2017.

Table 1. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports³⁹⁰

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	MTBF strength index.	2	2
	Fiscal rules strength index.	1	1
	Extent to which the annual budget proposal includes full information at the time of presentation to the parliament.	2	2
Quantitative	Percentage differences between the planned budget revenue in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	-12.1%	-8.0%

³⁸⁹ PPL, Chapter XII – Transitional Provisions: contracting authorities were obliged to use e-auctions in at least 30% (by value) of the contract-award procedures in 2010, a percentage that increased to 70% in 2011 and 100% in 2012 (with some minor exceptions).

³⁹⁰ OECD (2015), *Baseline Measurement Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris.

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	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	-9%	-6.7%
	General government budget balance.	-3.7% ³⁹¹	-4.0% ³⁹²
	Percentage differences between the planned budget revenue (as approved in the budget) compared to the outturn of the latest available year.	-6%	-4%
	Percentage differences between the planned budget expenditure (as approved in the budget) compared to the outturn of the latest available year.	-4%	-6%

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

Overall, there has been little change in the situation observed in 2017 compared with 2015. This is reflected in the unchanged indicator values in the table below. In 2017, cash management, debt management and reporting on budget execution follow the same procedures, guided by the same legislation, as in 2015. The continued increase in the public debt requires attention.

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

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which in-year financial reporting provides full information and is made publically available.	1	1
	Extent to which the annual financial report includes full information and is made available in time to the parliament.	4	4
Quantitative	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	2.8% ³⁹³	3.2% ³⁹⁴
	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	0% ³⁹⁵	Not available ³⁹⁶
	Public-sector debt servicing costs as a share of total expenditures	1.0%	1.1%

³⁹¹ As a share of GDP; National Economic Reform Programme 2015.

³⁹² As a share of GDP; National Economic Reform Programme 2017.

³⁹³ Ministry of Finance (MoF) data and SIGMA calculations.

³⁹⁴ *Ditto*.

³⁹⁵ Data included in the annual financial statement of the Government, audited by the SAO.

³⁹⁶ Reliable data not available.

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	Difference of public-sector debt level outturn from target.	14.1% ³⁹⁷	-0.8% ³⁹⁸
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Key requirement: National internal control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.

There has been little change in the situation observed in 2017 compared with 2015. This is reflected in the indicator values in the table below. In 2017, FMC follows the same procedures and is guided by the same legislation as in 2015. The complexity of the legislation inhibits full compliance among the smaller budget organisations.

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

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent to which the operational framework for FMC is complete, in place and applied.	4	4
Quantitative	Share of first-level budget organisations where the budget structure is aligned with the organisational structure.	67%	76%

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

Overall, the situation observed in 2017 has changed little from that of 2015. This is reflected in the indicator values in the table below. In 2017, IA is guided largely by the same regulations and procedures as in 2015, although in 2015 the PIFC Law was amended to allow smaller budget organisations to outsource IA unit work³⁹⁹.

While there has been a significant increase in the share of certified internal auditors, the overall percentage is still relatively low and the functioning of IA in the country is severely constrained due to the large number of small audit units that operate below the minimum staffing levels. The small size of the IA units is inhibiting the development of quality control arrangements within IA units. In addition, the Central Harmonisation Unit (CHU) has taken no action to develop quality control at a horizontal level.

³⁹⁷ In 2013, the Government estimated the total stock of general government debt to be 33.4% of GDP (Pre-Accession Economic Programme 2014-2016) but the actual situation at the end of 2014 was 38.1% of GDP (MoF report on the stock of public debt in 2014).

³⁹⁸ The Fiscal Strategy 2016-2018 estimated the total stock of general government debt to be 39.4% of GDP for 2016. The actual for 2016 reported by the MoF was 39.1%.

³⁹⁹ PIFC Law, Article 30.

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

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which the operational framework for internal audit is designed and in place.	3	3
	Quality of internal audit reports.	2	2
Quantitative	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	Not available ⁴⁰⁰	Not available ⁴⁰¹
	Share of internal auditors with a national or international internal audit certificate.	21%	40%

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

Progress during the last two years has been minimal. The PPL was amended twice in 2015⁴⁰². These amendments concerned primarily the operation of the PPC and the requirements for contracting authorities to obtain prior approval from the PPC. In January 2016, the PPC (which had been a part of the PPB up until that date) was established as a separate legal entity. Other legislative changes included obligatory requirements to use e-procurement for the conduct of most procedures⁴⁰³ and modifications concerning tender documents and negative references. Public consultations were not carried out on the second set of PPL amendments in 2015.

Table 5. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁴⁰⁴

	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	Extent to which public procurement legislation is complete and enforced.	4	4
	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	2	2

⁴⁰⁰ No data available.

⁴⁰¹ Ditto.

⁴⁰² Laws amending the PPL Law, Official Gazette Nos.78/2015 and 192/2015.

⁴⁰³ Article 13 of the Law amending the PPL (Official Gazette No. 78/2015) requires the use of e-procurement for the conduct of most procedures, increasing this practice from 30% in 2016 to 50% in 2017, with a view to attaining 100% by 2018.

⁴⁰⁴ OECD (2015), [Baseline Measurement Report: The former Yugoslav Republic of Macedonia](#), OECD Publishing, Paris.

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	Extent to which policy framework for public procurement is developed and implemented.	3	3
	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	2	2
	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	3	3
	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	4	4

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

No changes have been made in the legislative framework for remedies or in the institutional set-up of the SAC. The processing time for complaints has improved during the period under review, from an average of 13 days in 2014 to an average of 10 days in 2016. The other main development has been the improvement of the SAC's website in relation to the SAC's decisions. All of these decisions are published promptly and are available online. Decisions can now be searched for on the website by using specific fields, including number, date, parties, subject, and type of procurement procedure, but it still does not include a free text search.

Table 6. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	3	3
	Presence of a user-friendly procurement review website including timely publication of decisions and statistics, with adequate search functions.	3	4
Quantitative	Actual processing time of complaints related to procurement compared with maximum legal requirements.	87%	66%
	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	0%	0%
	Number of complaints in relation to the number of tender notices published.	3.8%	3.4%
	Share of complaints in procurement that are	11.5%	10.4%

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

The main development has been the ongoing improvement and updating of the ESPP. The PPB has produced a number of new guidelines and instructions and updated the comprehensive *Manual on Public Procurement*. It has also delivered certification training to a large number of contracting authority officials. A backward step has been the significant fall in the number of framework agreements awarded on an annual basis since the introduction of the requirement of at least seven economic operators for the conclusion of a framework agreement, except with the prior approval of the PPC.

Table 7. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports

	2015 Baseline Measurement indicator	2015 value	2017 value
Qualitative	Extent of use of modern procurement techniques and methods.	4	3
	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	4	4
Quantitative	Share of contracts already announced in published procurement plans or indicative notices.	52%	0.3%
	Share of contracts awarded by competitive procedures.	Not available ⁴⁰⁵	88.47%
	Share of contracts awarded based on acquisition price only.	Not available	99.9%
	Share of contracts amended after award.	Not available	Not available
	Average number of tenders submitted per goods contract to be procured.	Not available	3.17
	Average number of tenders submitted per works contract to be procured.	Not available	3.40
	Average number of tenders submitted per services contract to be procured.	Not available	2.59

⁴⁰⁵ In 2015 the data for this indicator, and all those hereafter, shown as “not available”, was not provided by the authorities.

Key requirement: The constitutional and legal frameworks guarantee the independence, mandate and organisation of the supreme audit institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high quality audits that impact on public sector functioning.

There has been little change in the legal framework since 2015. Three minor amendments to the SAL were passed during 2015 and 2016: the first strengthens sanctions against auditees for not providing all relevant information or documents⁴⁰⁶; the second clarifies the procedure for taking the authorised state auditor exam electronically⁴⁰⁷; and the third makes minor amendments to qualification provisions for Auditor General candidates⁴⁰⁸.

The SAO has implemented new manuals for regularity audits, performance audits, IT audits and follow-up audits of implementation of its recommendations, all prepared in accordance with the International Standards for Supreme Audit Institutions (ISSAIs).

Table 8. Comparison with the values of the relevant indicators used in the 2015 Baseline Measurement Reports⁴⁰⁹

	Principle no.	2015 Baseline Measurement Indicator	2015 value	2017 value
Qualitative	15	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	4	4
	16	Extent to which the SAI management ensures the development of the institution.	4	4
Quantitative	15	Share of SAI budget in the state budget.	0.1%	0.1%
	16	Proportion of audit reports published on website compared with audit reports adopted.	100%	100%
	16	Share of audit recommendations accepted and implemented by auditees.	51.5%	46% ⁴¹⁰

⁴⁰⁶ Official Gazette No. 154/2015.

⁴⁰⁷ Official Gazette No. 192/2015

⁴⁰⁸ Official Gazette No. 27/2016.

⁴⁰⁹ OECD (2015), *Baseline Measurement Report: The former Yugoslav Republic of Macedonia*, OECD Publishing, Paris.

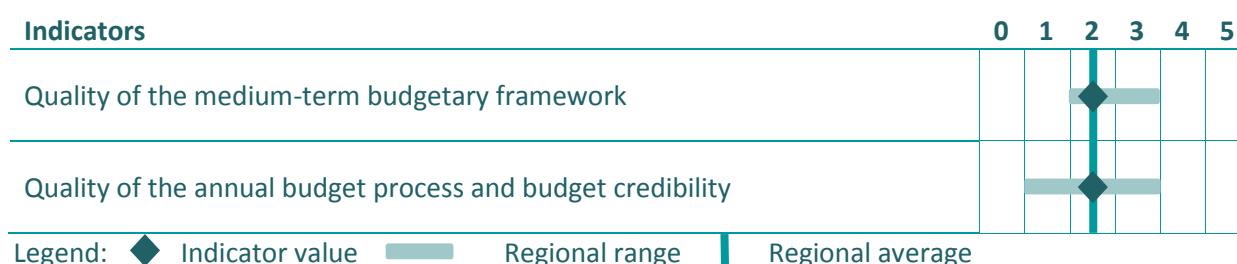
⁴¹⁰ SAO, Annual Report 2015.

2. ANALYSIS

This analysis covers 16 Principles for the public financial management area grouped under 8 key requirements. It includes a summary analysis of the indicator(s) used to assess each Principle, including sub-indicators⁴¹¹, and an assessment of the state of play for each Principle. For each key requirement short- and medium-term recommendations are presented.

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

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



Legend: ◆ Indicator value Regional range Regional average

Analysis of Principles

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

In line with the organic Budget Law, a Fiscal Strategy 2017-2019 was prepared in 2016⁴¹². The Fiscal Strategy sets out the revenues and expenditure at an aggregated level for the next three years and estimates the implications for the government deficit and debt stock. The Fiscal Strategy is prepared on a general government basis and includes planned funding from the IPA.

The country has not yet defined fiscal rules in its legislation, although government proposals for constitutional reform, including basic fiscal rules on the budget deficit and public debt, have been submitted to the Parliament. The proposals include a limit on the budget deficit of 3% of GDP and a public debt limit of 60% of GDP. While these fiscal rules are not yet endorsed by the Parliament they are included in the Fiscal Strategy 2017-2019 to ensure that the projected deficit and debt: GDP ratios are within the limits of these rules. It is noted that the Government was not able to respect the fiscal target for the budget deficit in both 2015 and 2016 (outturn was 3.5% in 2015 and is estimated to be 4% in 2016). The fiscal rule for the stock of public debt has been respected, but the debt level has been steadily increasing and reached 47.8% in 2016⁴¹³.

The Fiscal Strategy is focused on fiscal aggregates and does not support medium-term planning at either the sectoral or administrative unit level with a breakdown of the aggregate expenditure ceilings. Ceilings at the level of the budget organisation are only defined in the annual Budget Circular which is issued by the Ministry of Finance (MoF).

⁴¹¹ OECD (2017), *Methodological Framework for the Principles of Public Administration*, OECD Publishing, Paris, <http://sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-November-2017.pdf>. This methodology is a further developed detailed specification of indicators used to measure the state of play against the Principles of Public Administration.

⁴¹² Budget Law, Article 16.

⁴¹³ Stock of general government and public debt as of 31 March 2017, the MoF.

Although the Budget Law requires the Government to adopt the Fiscal Strategy by 31 May⁴¹⁴, the Fiscal Strategy for 2017-2019 was only adopted in October 2016. This followed the submission of the budget bill to the Parliament making it impossible to use the Fiscal Strategy to frame the annual budget planning. The Parliament does not formally adopt the Fiscal Strategy.

There is room for further improvement in the development of the macroeconomic forecasts, as the official projections have been overly optimistic in recent years. The estimates for both revenues and expenditure significantly exceeded the actual outturns in 2014 and 2015. There are no checks and balances to ensure the reliability of projections, for example by review by an independent body or by reference to technical publications on macroeconomic and fiscal forecasts separate from the Fiscal Strategy and the budget bill.

Medium-term planning at the level of budget organisations is done in a consistent manner through comprehensive medium-term strategic plans, incorporating policy plans, annual work plans and three-year financial estimates. However, the relationship between these documents and the Fiscal Strategy is unclear⁴¹⁵.

Due to the weaknesses outlined above, the value for the indicator 'Quality of the medium-term budgetary framework' is 2.

Quality of the medium-term budgetary framework						
This indicator measures the quality of the medium-term budgetary framework (MTBF), focusing on the process of budget preparation and four areas that influence the quality of the budget documents.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Strength of the medium-term budgetary framework	5/12
2. Strength of the fiscal rules	1/5
3. Credibility of medium-term revenue plans (%)	2/4
4. Credibility of medium-term expenditure plans (%)	2/4
Total⁴¹⁶	10/25

The Fiscal Strategy sets out the three-year projections for central and general government and the assumptions on which they are based. However the projections are only provided at an aggregate level and ceilings are not provided for first-level budget organisations. The links to sectoral policy plans are not presented, although the existence of strategic development plans for all ministries provides a good opportunity for linking sector policy planning and medium-term financial planning. In 2016, the Strategy was adopted by the Government more than three months after the legally established deadline.

⁴¹⁴ Budget Law, Article 16.

⁴¹⁵ The Budget Law, Article 14, mentions the strategic priorities of the Government, the Fiscal Strategy, the draft strategic plans of the budget organisations, and the budget policy as the basis for the budget preparation. There is no guidance given as to how they interrelate or if there is any hierarchy.

⁴¹⁶ Point conversion ranges: 0-3=0, 4-8=1, 9-13=2, 14-18=3, 19-22=4, 23-25=5.

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

The process for the preparation of the annual budget is set out in the organic Budget Law. In 2016, the budget calendar included in the organic Budget Law⁴¹⁷ was not fully followed due to the political instability, with delays in both the adoption of the Fiscal Strategy and the issuance of the annual budget circular⁴¹⁸.

As the Fiscal Strategy was adopted by the Government shortly after the submission of the draft Budget to the Parliament, the aggregate revenue and expenditure figures are precisely the same in both documents. The budget appropriation is comprehensive and covers programmes as well as administrative units. Performance objectives and indicators are provided for each budget organisation, but the indicators are not usable to monitor the performance of the organisation. The budget documentation also includes a description of new government policies, but it does not indicate the additional expenditure required. No information is given within the budget documents on contingent liabilities or on the long-term development of revenues and expenditures of the Government.

Planning of capital projects is an integral part of the annual budget preparation cycle and the multi-annual commitments of capital projects are presented in the budget documentation. However, there is no national requirement for large capital projects to be subject to an independent appraisal procedure, and no estimate of the related recurrent cost is included. Only capital projects that are financed through loans by international finance institutions and bilateral creditors are subject to a feasibility analysis based on the requirements and procedures of those institutions.

There are clear rules restricting in-year budget adjustments by the Government and these restrictions are respected⁴¹⁹. Nevertheless, due to overly optimistic forecasts, the credibility of the budget estimates is reduced. Over the last three years, the annual revenues and expenditure have been overestimated (6% in 2014, 3% in 2015 and 6% in 2016). In particular the outturn of capital expenditures is significantly lower than estimated, with an execution rate of 66%.

Under the Budget Law, only one month is given for debating the draft budget bill in the Assembly (the draft is submitted by 15 November, discussion in the plenary starts 20 days after the submission)⁴²⁰. This does not reflect current good practice as advised by the Organisation for Economic Co-operation and Development (OECD)⁴²¹ or bring it into line with EU requirements for Eurozone members – notably, the requirement that the draft central government budget for the coming year, as well as the main parameters of the draft budgets for all the other general government subsectors, be made public annually no later than 15 October each year⁴²². In 2016, the draft budget was presented to Parliament on 18 September 2016 and adopted within a month on 17 October 2016.

Due to the weaknesses outlined above, the value for the indicator ‘Quality of the annual budget process and budget credibility’ is 2.

⁴¹⁷ Budget Law, Articles 16 and 19.

⁴¹⁸ The Fiscal Strategy was adopted on 13 October 2016 instead of 31 May 2016. The first Budget Circular was issued on 26 June 2016 instead of 15 June 2016.

⁴¹⁹ Budget Law, Article 33.

⁴²⁰ *Idem*, Articles 29 and 30.

⁴²¹ OECD (2002), *OECD Best Practices for Budget Transparency*, OECD Publishing, Paris.

⁴²² EU Regulation No. 473/2013.

Quality of the annual budget process and budget credibility

This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi-annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.

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

Sub-indicators	Points
1. Operational alignment between the MTBF and the annual budget process	2/4
2. Reliability of the budget calendar	2/4
3. Transparency of the budget proposal before its adoption in parliament	5/8
4. Quality in the budgeting of capital investment projects	2/5
5. Parliamentary scrutiny of the annual budget	0/5
6. Transparency and predictability of procedures for in-year budget adjustments	3/4
7. Credibility of revenue plans in the annual budget (%)	3/4
8. Credibility of expenditure plans in the annual budget (%)	2/4
Total⁴²³	19/38

The existing legislation covers aspects of good budgeting practice, resulting in a comprehensive annual budget that includes all IPA funds. In 2016, however, the budget calendar was not fully complied with in the preparation of the budget. The Parliament also did not take the given time to scrutinise the draft budget bill even though the draft annual budget was submitted earlier than required by the Budget Law.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should scrutinise proposals by budget organisations to establish more realistic revenue and expenditure forecasts, and thus provide a more realistic and credible idea of available budget funding.
- 2) The MoF should require the submission of strategic plans before preparation of the Fiscal Strategy, and should include more detailed sector policy information in the Fiscal Strategy. In order to develop into a medium-term framework for government expenditures, the Fiscal Strategy should include more information on the main government sectors and elaborate on the spending pressures and the applicable government strategies.
- 3) The MoF should publish bi-annual macroeconomic and fiscal forecasts in advance of, and independently from, the Fiscal Strategy and the draft budget bill submitted to the Government.
- 4) The Parliament should adopt the proposal to establish binding fiscal rules or, alternatively, the MoF should propose legally binding fiscal rules within the organic Budget Law.

Medium-term (3-5 years)

- 5) The MoF should establish sector-specific spending ceilings in the Fiscal Strategy to increase its strategic role in resource planning and to guide the preparations of the annual budget. Such

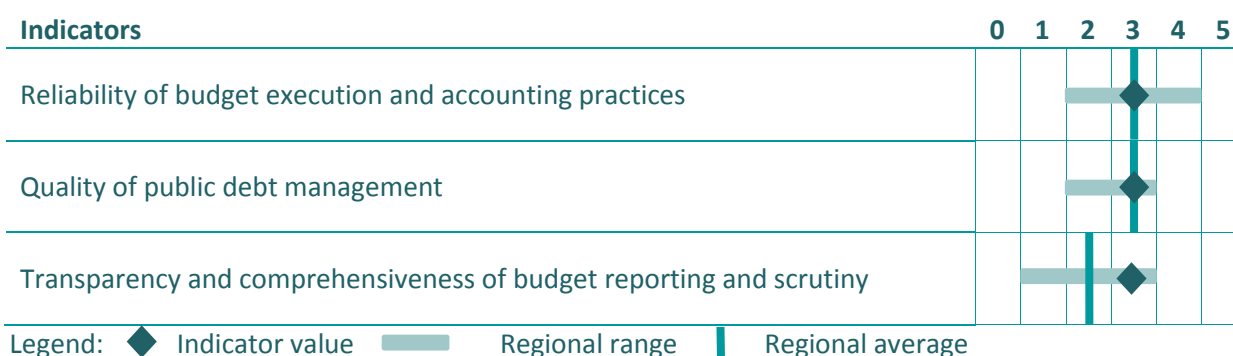
⁴²³ Point conversion ranges: 0-6=0, 7-13=1, 14-20=2, 21-26=3, 27-32=4, 33-38=5.

sectoral ceilings should consolidate a number of smaller budget organisations that are working in the same sector.

- 6) The MoF should provide additional information on relevant topics to aid interpretation of the draft budget (e.g. cost and benefits of new government policies, contingent liabilities, and long-term projections of revenues and expenditures in key sectors).

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

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



Analysis of Principles

Principle 3: The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

The legal basis for the single treasury account is set out in the organic Budget Law, and the MoF has the sole authority to open bank accounts and disburse funds on behalf of central government. Transactions are recorded in the treasury system, which provides all budget organisations with updated information on the execution of their budget. The records of the treasury system are reconciled on a monthly basis with the bank records⁴²⁴.

The MoF also prepares a month-by-month cash flow plan for the year, informed by the per-quarter cash flow plans submitted by budget organisations at the beginning of the fiscal year. Budget organisations are also required to submit to the Treasury quarterly plans broken down by month at the beginning of each quarter. The Treasury operates a system of commitment controls in which payments from the Treasury are possible only if a commitment has been registered in the system; since 2014, multi-annual commitments have also been recorded. The system should ensure that budget organisations are only able to register commitments for which funding has been authorised.

Based on information from the MoF, the system effectively prevents the recording of commitments in amounts exceeding what has been budgeted. Furthermore, budget execution is in line with the Law on Financial Discipline⁴²⁵, so all payment orders are executed within 30 days from their submission to the treasury system. The system does not, however, record the date on which an invoice is received by a budget organisation, so there is no objective evidence on the occurrence of payment arrears. Only the date on which an invoice is presented by a budget organisation to the MoF Treasury for payment is recorded.

⁴²⁴ Details are set out in the guidelines on the method of treasury operations by the MoF.

⁴²⁵ Law on Financial Discipline, Official Gazette No. 187/2013.

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In the years 2014 and 2015 no arrears were reported at the level of central government. The problem of late payments nevertheless persists, according to the regular survey carried out by the non-governmental organisation (NGO) the Center for Civil Communications (CCC) and presented in the Report on Monitoring of Public Procurements⁴²⁶. Evidence on the occurrence of payment arrears is also presented in the 2015 Public Expenditure and Financial Accountability (PEFA) report⁴²⁷.

The value for the indicator 'Reliability of budget execution and accounting practices' is 3.

Reliability of budget execution and accounting practices					
This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.					
Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.					
Overall indicator value	0	1	2	3	4 5

Sub-indicators	Points
1. Presence of a treasury single account (TSA)	2/2
2. Frequency of revenue transfer to the TSA	1/1
3. Frequency of cash consolidation	1/1
4. Credibility of cash-flow planning	1/2
5. Budget classification and chart of accounts	2/2
6. Frequency of bank-account reconciliation (for all central government bank accounts)	2/2
7. Availability of data on the stock of expenditure arrears	0/2
8. Expenditure arrears (%)	0/3
Total⁴²⁸	9/15

All public funds are channelled through the treasury single account which is controlled by the MoF. Cash flow estimates are prepared by all budget organisations on a quarterly basis. The treasury system provides information on transactions and commitments, but no information on payment arrears is reported.

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.

Debt management is regulated by the Public Debt Law (PDL)⁴²⁹, which includes definitions and procedures for borrowing by local government and state-owned enterprises (SOEs), as well as for central government. According to the Law, the debt management strategy is part of the Fiscal Strategy⁴³⁰. The section in the Fiscal Strategy on debt management includes forecasts about debt at all

⁴²⁶ CCC (2016), *Monitoring of Public Procurements in the Republic of Macedonia*, April, CCC, Skopje.

⁴²⁷ <https://pefa.org/sites/default/files/assements/comments/MK-Dec15-PFMPR-Public.pdf>.

⁴²⁸ Point conversion ranges: 0-1=0, 2-4=1, 5-7=2, 8-10=3, 11-13=4, 14-15=5.

⁴²⁹ Official Gazette No. 165/2014.

⁴³⁰ PDL, Article 7.

levels of government and sets targets for public debt levels for three years, but lacks data about the debt developments during the past years.

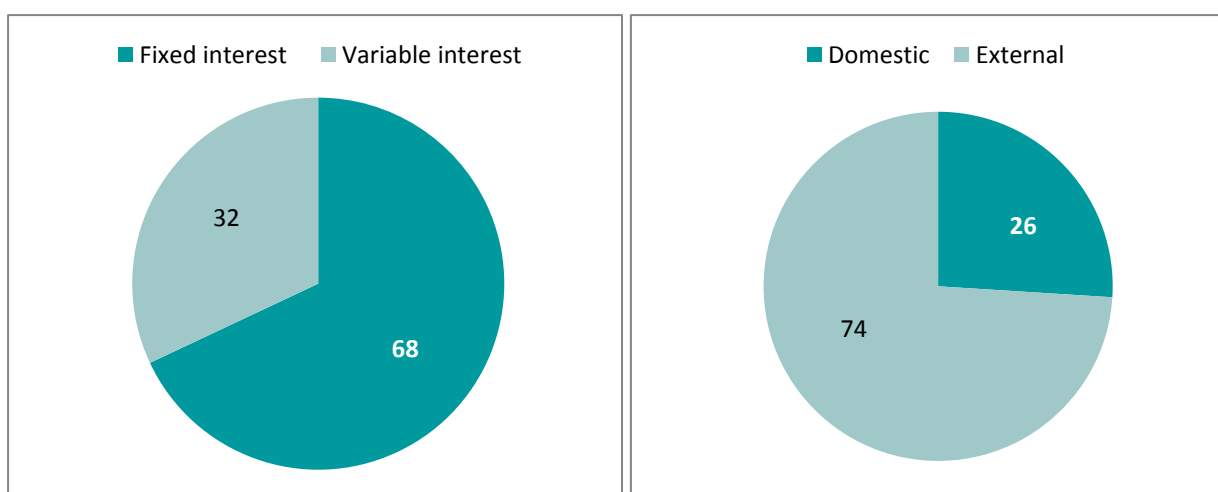
The Government reports on debt management quarterly and these reports are publicly available⁴³¹. The annual report on public debt is published six months after the end of the fiscal year and covers all levels of government. It provides information on the breakdown of the existing stock of debt between currencies, sources and maturity levels. However, neither the Fiscal Strategy nor the Annual Debt Report explains the reasons for any deviations from the estimates or targets presented in the national debt management strategy.

The PDL includes procedures for borrowing by local governments and SOEs, as well as for central government, which mitigate the risks to the country's debt profile. Local governments can only borrow within legally set limits and with the formal consent of the MoF. SOEs report on their debt and borrowing twice a year.

The overall level of public debt is low in the European context, with total public debt reaching 47.8% of GDP in 2016, well within the target of 60% set in the Fiscal Strategy. The level of public debt, however has been rising steadily over the last ten years⁴³². The general government debt-to-GDP ratio in 2016 has increased to 39.1% from 38.1% in 2015 and 20.5% in 2008. The ratio for total public debt including guarantees to SOEs has increased to 47.8% from 46.7% in 2015 and 23.0% in 2008.

The majority of public debt relates to external debt from international financing institutions with 74.4% denominated in foreign currencies. The level of debt structured with fixed interest rates has increased to 68.4%, reducing the debt servicing risk. The average maturity of debt is 2.5 years for domestic debt and 5.5 years for external debt. The short average maturity of domestic debt exposes the Government to a short-term refinancing risk⁴³³.

Figure 1: Proportion of domestic/external debt and debt with fixed/variable interest



Source: Report on Public Debt Management 2015, Ministry of Finance.

⁴³¹ <http://www.finance.gov.mk/en/node/2678>.

⁴³² Stock of general government and public debt as of 31 March 2017, according to the Government.

⁴³³ MoF Report on Debt Management 2015.

Figure 2. Average maturity of domestic and external debt as a percentage of the total stock of debt in 2013



Source: Report on Public Debt Management 2015, Ministry of Finance

Therefore, the value for the indicator 'Quality of public debt management' is 3.

Quality of public debt management	
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to GDP, and the difference between public sector debt outturn and target.	
Overall indicator value	0 1 2 3 4 5

Sub-indicators	Points
1. Existence of requirements and limitations for borrowing in the legal framework	3/3
2. Existence and minimum content of a public debt management strategy	3/4
3. Clarity of reporting on public debt	2/4
4. Risk mitigation in the stock of public debt	3/6
5. Difference between public sector debt outturn from target (%)	3/3
6. Public debt as a share of GDP (%)	2/2
Total⁴³⁴	16/22

The institutional framework for debt management is well established in terms of the legislative framework and organisational set-up. The Government publishes its strategy for debt management as part of the Fiscal Strategy, and the annual reports provide comprehensive information, although explanations on deviations from the estimates or targets are lacking and in the last ten years the level of public debt as a percentage of GDP has increased steadily.

⁴³⁴ Point conversion ranges: 0–2=0, 3–7=1, 8–12=2, 13–16=3, 17–19=4, 20–22=5.

Principle 5: Transparent budget reporting and scrutiny are ensured.

All expenditure by ministries, government agencies financed through the budget, and the three social insurance funds (pensions, health insurance, unemployment) is included in the consolidated budget, including expenditure financed through fees and charges levied by these bodies, and expenditure financed by external grants and loans. A small number of regulatory bodies whose activities are financed through their own revenues outside the treasury system are excluded from the budget. Also, while the activities of the Public Enterprise for State Roads (PESR) are financed by a share of excise duty on road fuel, road tolls and borrowing guaranteed by government, its transactions are neither managed through the treasury system, nor included in the budget or reported in the annual financial report.

The MoF publishes monthly reports on budget execution⁴³⁵. These reports provide information on fiscal aggregates and economic categories, but they do not provide details at the level of budget organisations, there is no comparison to the initial spending plan and deviations are not explained. In June 2017, however, the MoF began publishing quarterly reports on the revenues and expenditures at the level of budget organisations⁴³⁶. Prior to 2017, reporting on local government by central government was only done annually, but in June 2017 the MoF also began to publish quarterly reports⁴³⁷. Local government financial reports do not cover borrowing or stocks of arrears, but expenditures and revenues are broken down into detailed categories.

Financial statistics produced by the MoF do not fully comply with the European System of Accounts (ESA) 2010 standards, as the data is recorded on a cash basis (capturing revenue and expenditure). Accounting standards are national and are defined in the Law on the Accountancy of the Budget and the Budget Beneficiaries⁴³⁸ and the MoF's Rulebook for Accounting for the Budget and Budget Beneficiaries.

According to the organic Budget Law⁴³⁹, the annual financial report should be submitted to the Parliament by 30 June together with the audit report of the SAO for discussion and approval. In 2016, these milestones were achieved for the 2015 annual financial report, and the Parliament reviewed the SAO Annual Report 2015 on 6 July 2016. The annual financial report is comprehensive at the central government level, but it does not report on the performance information included in the budget. The annual financial report also includes only figures and does not explain variations from the original budget allocation. Information on some assets and liabilities are included, but it lacks information on contingent liabilities and on transfers and disposal of assets.

Due to the weaknesses outlined above, the value for the indicator 'Transparency and comprehensiveness of budget reporting and scrutiny' is 3.

⁴³⁵ <http://www.finance.gov.mk/en/node/699>.

⁴³⁶ <http://www.finance.gov.mk/en/node/885>.

⁴³⁷ <http://www.finance.gov.mk/mk/node/898>.

⁴³⁸ Official Gazette Nos. 61/2002, 98/2002, 81/2005, 24/2011 and 145/2015.

⁴³⁹ Budget Law, Article 52.

Transparency and comprehensiveness of budget reporting and scrutiny

This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.

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

Sub-indicators	Points
Comprehensiveness of published information	
1. Quality of in-year reports of government revenue, expenditure and borrowing	4.5/7
2. Quality of the annual financial report of the government	4/7
3. Quality of annual reports of state-owned enterprises, extra-budgetary funds and local government	2/5
4. Clarity of national accounting standards and consistency with international standards	1/4
5. Existence of reporting on fiscal risks identified in the budget	0/1
Scrutiny and oversight using published information	
6. Quality of the annual financial reporting on the use of public finances	1/3
7. Timeliness of dissemination of the SAI report to the national parliament	2/2
8. Timeliness of parliamentary discussion on the report of the SAI	3/3
Total⁴⁴⁰	17.5/32

The basic conditions for budget transparency are in place, with monthly in-year reporting and the timely submission of the audited annual financial statement to the Parliament. However, the current reports include only basic quantitative information and no qualitative explanations and/or information on policy performance.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should review the definition of public debt set out in the Law on Public Debt, taking into consideration the definitions of the ESA.
- 2) The MoF should strengthen the quarterly financial reports by providing further information on local government and SOEs' financial activities (e.g. borrowing and the stock of arrears).

Medium-term (3-5 years)

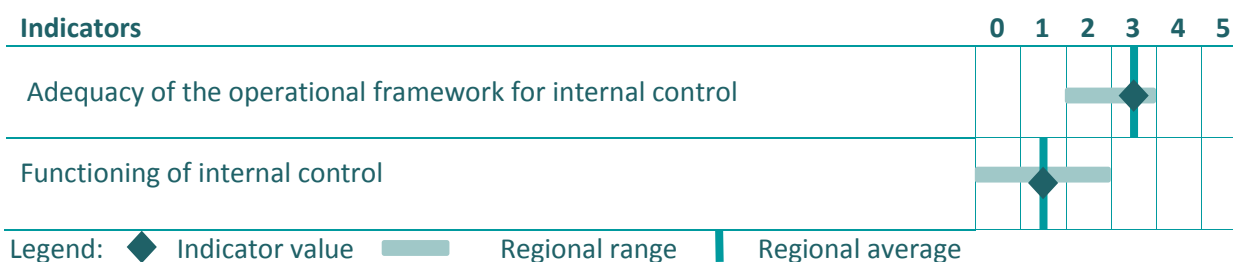
- 3) The MoF should continue to gradually reduce the share of floating-rate debt and increase the average maturity of domestic public debt.
- 4) The MoF, in co-operation with the Statistical Office, should develop procedures and capacities for applying ESA methodologies for the purposes of fiscal reporting.
- 5) The MoF should develop a five-year strategy to enhance, among other things, the content of in-year reports and the annual financial report.

⁴⁴⁰ Point conversion ranges: 0-7=0, 8-12=1, 13-17=2, 18-22=3, 23-27=4, 28-32=5. Rounded up to 18 to calculate the point conversion. SIGMA uses a rounding up convention when the total number of points for an indicator includes 0.5 points.

Internal control and audit

Key requirement: National internal control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout

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



Analysis of Principles

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

Overall, the operational framework for FMC is established. The PIFC Law⁴⁴¹ and the FMC and Control Manual refer to the five elements of the Committee of Sponsoring Organisations (COSO) framework⁴⁴². In addition, several rulebooks regulate general financial processes in the budget organisations, establish the manner of delegation of authority and set requirements for the financial affairs departments. These rulebooks were prepared in 2010 and 2011.

A comprehensive PIFC Policy Paper for 2015-2017⁴⁴³ was approved by the Government in December 2014. The plan focuses on weaknesses in implementation and sets out the necessary actions to cover all areas of the PIFC policy. It is comprehensive in coverage including actions in the area of budget management. The implementation of the plan is ongoing and so far around two-thirds of the activities have been implemented.

Other legislation does not specifically support FMC, for example the organic Budget Law makes no specific reference to the delegation of decision-making authority. The Rulebook for the Manner of Performing Activities of the Financial Affairs Units provides a useful basis for larger budget organisations, but it is too complex for the organisation of internal financial control processes in smaller organisations. So far, no analysis of the coherence of PIFC legislation with other horizontal legislation, including the Budget Law, has been carried out.

In line with the PIFC Law⁴⁴⁴, the CHU prepared an annual report to the Government on progress with the implementation of FMC covering the year 2015. The report was sent to the Government in July 2016 in line with the statutory deadline. The report is based on data derived mainly from a self-assessment of all budget organisations required to implement FMC. Seventy-five entities out of 92 central government organisations (88%) that are required to implement FMC requirements reported on the progress they made during the year. The report includes detailed aggregate statistics covering

⁴⁴¹ Official Gazette Nos. 90/2009 and 188/2013.

⁴⁴² Committee of Sponsoring Organizations of the Treadway Commission.

⁴⁴³ MoF, Policy Paper for Development of Public Internal Financial Control in the Republic of Macedonia for the period 2015-2017, August 2014.

⁴⁴⁴ PIFC Law, Article 48.

all budget organisations, and it was considered by the Government, with the Government's conclusions providing directions to address shortcomings.

The management structures responsible for the management of IPA programmes are in place and operational, and some effort has been made to introduce IPA-specific procedures to the national programmes. However, the national budget management and control systems and those for EU-funded programmes are still disconnected.

A financial inspection service was established in the MoF under the Law on Financial Inspection in the Public Sector and started its work in 2014⁴⁴⁵. The inspection service concentrates on individual cases of possible financial mismanagement, and its work does not conflict with the work of IA.

The value for the indicator 'Adequacy of the operational framework for internal control' is 3.

Adequacy of the operational framework for internal control						
This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms.						
A separate indicator measures the implementation of the operational framework for internal control.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Policy for the development of internal control	4/6
2. Completeness of the regulatory framework for internal control	4/5
3. Comprehensiveness and regularity of the annual review and reporting on internal control	4/5
4. Alignment between national budget management and control systems and those for EU-funded programmes	0/4
Total⁴⁴⁶	12/20

A regulation covering the operational framework required for FMC implementation is in place. Furthermore, the Government is implementing the activities resulting from the policy paper for PIFC 2015-2017. It reports annually in July on the progress of FMC implementation in budget organisations. So far, the Government's FMC procedures are not yet aligned with the budget and control systems applied to EU-funded programmes.

Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

The central government is organised in 92 first-level budget organisations including 15 ministries and 5 constitutional bodies. In terms of the implementation of the FMC legislation, there is no hierarchy among these organisations and the PIFC Law and its by-laws apply to all organisations. In addition to these central organisations, 81 municipalities are obliged to implement the FMC legislation, taking the total number of organisations covered by the FMC legislation to 173.

Implementation of FMC at an institutional level is lagging behind the development of the policy framework. The common weaknesses in ensuring internal control include: key positions required by

⁴⁴⁵ Official Gazette Nos. 82/2013 and 43/2014.

⁴⁴⁶ Point conversion ranges: 0-2=0, 3-6=1, 7-10=2, 11-14=3, 15-17=4, 18-20=5.

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the FMC regulation not filled; FMC action plans not always developed; risk management procedures not implemented; and a lack of delegation of decision-making authority in financial management beyond the level of the minister and the state secretary. The requirements are also complex for some smaller budget organisations. As of December 2016, the following rates of implementation are reported⁴⁴⁷:

- 78 budget organisations (85%) have established a Financial Affairs Unit;
- 56 budget organisations (61%) have appointed a Head of Financial Affairs Unit;
- 62 budget organisations (67%) have adopted risk management strategies;
- 47 institutions at central level (51%) have adopted risk registers;
- 79 budget organisations (86%) have appointed a person in charge of irregularities⁴⁴⁸;
- 70 budget organisations (76%) have established alignment between budget structure and management structures;
- 44 budget organisations (48%) have decentralised budget management by an annual decision.

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

Delegation of decision-making authority in FMC is permitted but is often not applied; it is common that the minister signs the procurement contracts of the ministry as well as individual payment requests before these are submitted to the MoF.

The CHU does not undertake any quality assessment of the implementation of FMC procedures in individual budget organisations. It should be noted, however, that the SAO has carried out audits on the implementation of the PIFC framework across central government budget organisations, undertaking 80 performance audits in 2014 and 13 in 2015. Findings were reported in separate reports but no overall report was published.

A commitment control system is in place, which should prevent commitments being made that exceed the budget ceilings. However, the effectiveness of the commitment controls cannot be established, as the government does not report on the outstanding payment arrears⁴⁴⁹. Financial and physical monitoring of investment projects is carried out at the project level. No consolidated reporting on capital projects at the level of individual ministries is undertaken⁴⁵⁰. A number of organisations are developing risk strategies and risk registers, but risk management procedures are generally not implemented across many budget organisations.

Due to the weaknesses outlined above, the value for the indicator 'Functioning of internal control' is 1.

⁴⁴⁷ Report on Financial Control to the Committee on Stabilization and Association, MoF, February 2017.

⁴⁴⁸ PIFC Law, Article 50.

⁴⁴⁹ <https://pefa.org/sites/default/files/assements/comments/MK-Dec15-PFMPR-Public.pdf>.

⁴⁵⁰ SIGMA interviews with the MoF, the Ministry of Education and the Ministry of Transport.

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Functioning of internal control						
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies	0/3
2. Alignment between organisational and budget structures (%)	2/3
3. Credibility of controls for avoiding commitments above the expenditure ceilings	0/2
4. Availability of reporting of total cost and physical progress of major investment projects	0/2
5. Effectiveness of basic managerial accountability mechanism for central government bodies	0/4
6. Delegation of decision-making authority within ministries	1/4
7. Regularity and completeness of risk management practices	0/3
8. Existence of reporting on irregularities	1/2
Total⁴⁵¹	4/23

Implementation of FMC is lagging behind the development of the policy framework, with significant disparities among different organisations in implementing the requirements. For many of the smaller budget organisations, the requirements are too complex, inhibiting compliance with the FMC regulations. There is limited financial delegation below the level of ministers or state secretaries.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should conduct a review of the rulebooks that support the implementation of FMC to ensure that they are up to date and follow recent developments in COSO.
- 2) The MoF should carry out a quality assessment of the implementation of FMC procedures in individual budget organisations by reviewing both the completeness and actual implementation of the FMC-specific procedures.
- 3) The MoF and the Ministry of Information Society and Administration (MISA) should analyse existing practices in budget management, human resource management and other areas that determine managerial responsibilities in the public sector, and identify provisions that need to be aligned with the PIFC regulation.
- 4) The MoF should lighten the requirements for small budget organisations for the organisation of their financial affairs functions.

Medium-term (3-5 years)

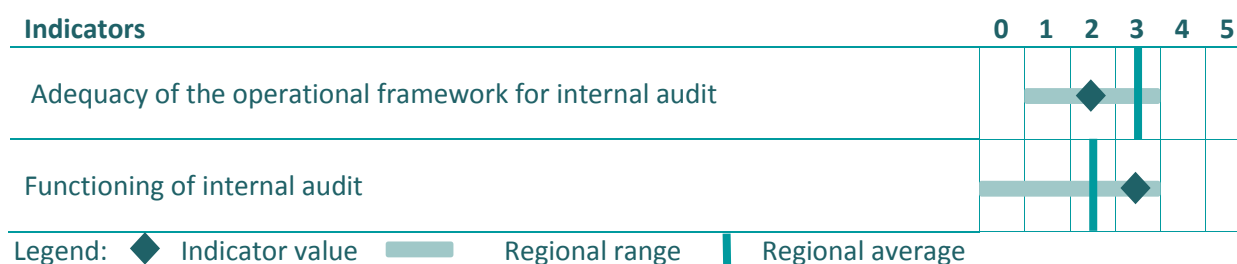
- 5) The MoF, in co-operation with the MISA, should prepare and implement a financial management training programme for the relevant public-sector employees.

⁴⁵¹ Point conversion ranges: 0-3=0, 4-7=1, 8-11=2, 12-15=3, 16-19=4, 20-23=5.

- 6) The MoF, in co-operation with the MISA, should ensure, through close monitoring and reporting, that arrangements for the delegation of authority are put into practice in budget organisations.
- 7) The MoF should consider earlier submission of the annual reports on PIFC by ensuring that the consolidated report on PIFC policy is available within three months of the end of the calendar year.
- 8) The MoF should expand good practices of IPA management and control systems to the wider management rules for budget execution, and should adjust the rules for IPA programmes to meet the needs of the overall framework for FMC.
- 9) The MoF should consider the rationalisation of the large number of first-level budget organisations, with smaller ones being subordinate under a larger sector line ministry. The responsibility for implementation of FMC in the smaller budget organisations should be delegated to the sector ministries.

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

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



Analysis of Principles

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

The overall legal and policy framework for IA is in place and is largely in line with international good practice. The PIFC Law specifies⁴⁵² that IA should be carried out in accordance with the International Standards of the Institute of Internal Auditors⁴⁵³. The Law is supported by rulebooks consistent with the Law, and extensive guidance material is available for internal auditors, including an extensive IA Manual for systems audit. No guidance on other types of audit including performance audit and IT audit are available.

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

⁴⁵² PIFC Law, Article 26.

⁴⁵³ The International Standards for the Professional Practice of Internal Auditing (ISPPA), established by the Institute of Internal Auditors.

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For the central government, 94% (88 out of 93) of first-level budget organisations have established an IA unit guided by an audit charter⁴⁵⁴. A significant number, however, have not met the minimum staffing requirements of three auditors per unit. The 88 IA units established within central government employ 146 auditors in total. This indicates that only a small number of IA units meet the minimum staffing level⁴⁵⁵, making compliance with the review and supervision requirements of international standards very difficult.

The training needs of IA units are not taken into account when planning central training and the share of internal auditors with IA certificates is low. The CHU reports that 40% of the audit staff employed by the public sector (83 out of 215) has an IA certification from the Chartered Institute of Public Finance and Accountancy. Currently there is no accredited training scheme in place to increase the number of certified auditors.

The PIFC Policy Paper for 2015-2017 includes plans to strengthen IA in the public sector, and its two-year Action Plan focuses on persistent weaknesses, such as staffing, training and quality assurance. However, the implementation of the Action Plan is to a large extent not yet completed. As per the end of 2016, two out of seven activities relating to the IA function had been implemented. For example, training to introduce a model for the assessment of the quality of IA was carried out, but the quality of IA in the pilot institutions has not yet been assessed. Although the PIFC Law requires systematic quality assurance⁴⁵⁶, it is not being undertaken by either the IA units or the CHU.

The Audit Committee was established in 2014 to improve co-ordination of IA across the public administration, and to advise the MoF in developing IA policy. The Committee was chaired by the State Secretary of the MoF and composed of the heads of the IA units of all the ministries. This Committee met twice in 2014, but no further meetings have taken place since then, and the Committee is no longer operational.

Due to the weaknesses outlined above, the value for the indicator 'Adequacy of the operational framework for internal audit' is 2.

⁴⁵⁴ <http://www.finance.gov.mk/en/node/959>

⁴⁵⁵ The precise number of IA units with less than three staff members has not been reported.

⁴⁵⁶ PIFC Law, Article 48.

Adequacy of the operational framework for internal audit

This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.

A separate indicator measures the implementation of the framework and the results achieved.

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

Sub-indicators	Points
1. Adequacy of the regulatory framework for internal audit	5/5
2. Organisational capacity for internal audit	3/5
3. Co-ordination, development and guidance of the internal audit system	1/5
4. Existence of a system for quality assurance for internal audit	0/3
Total⁴⁵⁷	9/18

In terms of the operational framework required to implement IA, the laws and regulations are consistent with international standards and specify appropriate operational arrangements. However, the staffing of the IA function does not meet minimum requirements, and basic quality assurance arrangements for IA are not yet in place.

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

In line with the requirements of the PIFC Law⁴⁵⁸ over 1 000 organisations are required to establish an IA function. Currently 192 organisations have established an IA function, of which 134 have prepared strategic audit plans and 138 have annual audit plans in place. Further review of the audit plans in a sample of budget organisations⁴⁵⁹ showed that the plans are prepared in line with the applicable guidelines and include a risk assessment covering all parts of the organisation. The audit plans demonstrated a strong preference for systems-based compliance audits, and no performance audits have been identified. The audit plans also show that the audits do not focus only on government domestic funds, but also target IPA-funded projects along with projects sourced from other donor-funded programmes.

For each of the IA units included in the sample, one audit report has been reviewed. On this basis it is concluded that audit conclusions and recommendations are commonly backed up by references, explanations and evidence. On the other hand, no consistency was observed in the formulation of clear objectives and definition of scope. Also, no consistency was observed in the description of the audit methodology. In most cases, the methodology referred to interviews and document review, but it did not present a sound approach to identifying and addressing systematic weaknesses in internal control systems.

Data on the implementation of recommendations is included in the Annual PIFC Report prepared by the CHU. Based on the quarterly reports of the IA units, the data for 2015 shows that 53% of recommendations are fully implemented, 21% are partially implemented and 26% are either not implemented or information is not available.

⁴⁵⁷ Point conversion ranges: 0-2=0, 3-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

⁴⁵⁸ PIFC Law, Article 29.

⁴⁵⁹ The Ministry of Education, the MoF, the Ministry of Transport, the Public Enterprise for State Roads, and the Public Revenue Agency.

The value for the indicator 'Functioning of internal audit' is 3.

Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
1. Annual planning of IA work in budget organisations	6/7
2. Quality of audit reports	2/6
3. Follow-up and implementation of audit recommendations	1/3
Total⁴⁶⁰	9/16

Most IA units prepare strategic and annual audit plans incorporating risk assessment. Audit reports are prepared, and incorporate a credible link between evidence and conclusions but are focused on compliance issues. A weakness in internal audit practice appears to be in designing the audit methodology. The rate of implementation of audit recommendations is about 50%.

Key recommendations

Short-term (1–2 years)

- 1) The MoF, in co-operation with the MISA, should develop sustainable long-term arrangements for the training of internal auditors in the public sector, based on the detailed regulation on the training and examination of internal auditors.
- 2) The MoF should establish a basic quality assurance programme that helps IA units give due attention to systemic weaknesses in their set-up and working practices.

Medium-term (3-5 years)

- 3) The MoF should further develop IA capacities to provide an advisory service to management, with a clear focus on ensuring that FMC systems are operational and effective (as opposed to just meeting the legal requirements).
- 4) The MoF should enforce the legal requirements for the minimum size of IA units.

⁴⁶⁰ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

Public procurement

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

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



Analysis of Principles

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

The PPL covers both the classic and utilities sectors in considerable detail. It regulates the award of contracts both above and below the EU thresholds. The fundamental policy goals of value for money, competition, transparency, equal treatment and support to integrity are the principles that underpin the PPL. The PPL was largely in line with the 2004 Directives⁴⁶¹, but it has not yet been updated so as to align with the 2014 Directives. The requirement of awarding a tender to the lowest bidder in most cases⁴⁶² and the use of negative references, with the consequent exclusion from public tender processes⁴⁶³, are particularly in conflict with the 2004 and 2014 Directives⁴⁶⁴. Provisions in the 2014 Directives that aim to benefit small and medium-sized enterprises (SMEs) are not available under the PPL, such as the limitation on maximum turnover requirements and direct payments to subcontractors. No provisions in the PPL deal with innovation partnerships.

⁴⁶¹ Directive 2004/18/EC on the Coordination of Procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts, and Directive 2004/17/EC Coordinating the Procurement Procedures of Entities Operating in the Water, Energy Transport and Postal Services Sectors.

⁴⁶² Article 160(1) of the PPL requires that the contract award criterion be the lowest price. Article 160(2) sets out some limited exceptions to this general requirement: the procurement of consultancy and other intellectual services; procedures for the awarding PPP contracts; and procurement for which it is impossible to precisely determine the quality or other elements as minimum requirements in the technical specifications. In each case, prior consent of the PPC is necessary in order to use the most economically advantageous tender award criterion. The use of that criterion is nevertheless obligatory for the competitive dialogue procedure and in the case of variants.

⁴⁶³ Article 40 of the PPL requires the automatic exclusion of an economic operator from participation in procurement procedures for a period of one year as from the date a negative reference is published on the ESPP. Negative references arise as a consequence of specific failures of the economic operator concerning tender guarantees (PPL, Article 47) or performance guarantees (PPL, Article 48), as well as the failure to submit verification documents in simplified competitive procedures (PPL, Article 103).

⁴⁶⁴ The SAO has published a report recommending that the MoF and the Government undertake revocation of this obligation and of other specified instruments ("Final Report of the Authorised State Auditor on the Performance Audit on the Topic of 'Efficiency of the Policies and Instruments in the Public Procurement System and the Procedure for Granting Approval to Publish a Contract Notice'", No. 15-194/9, 26 April 2017).

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The PPL was amended twice in 2015⁴⁶⁵. The amendments concerned primarily the operation of the PPC and its status as an independent legal entity. Other changes included requirements for the increased use of e-procurement, tender documents, and modifications related to negative references. Two sets of minor amendments to the PPL were made in 2016⁴⁶⁶. Extensive secondary legislation, rulebooks, guidebooks and brochures supporting the implementation of the PPL are easily available on the website of the PPB⁴⁶⁷, and documents relevant to the operation of the PPC are published on the PPC web page⁴⁶⁸.

The Defence Directive has not been transposed into national law. According to Article 6 of the PPL, the rules of the PPL also apply in the field of defence, except in cases where the essential security interests of the country may be adversely affected. The exceptions related to state security seem to allow for defence procurement to be entirely exempted from the general public procurement regulations, contrary to EU requirements.

Concessions and PPPs are subject to the C&PPP Law⁴⁶⁹, which provides a basic framework for the procurement of concessions and PPPs⁴⁷⁰, in accordance with the principles of transparency, non-discrimination, proportionality, efficiency, equal treatment and mutual recognition. The provisions of the C&PPP Law on the award of PPPs are not aligned with the Concessions Directive. The PPP Unit in the Ministry of Economy (MoE) is the competent authority for PPPs and maintains the Public-Private Partnership Register (PPP Register) of awarded contracts. The PPP Register recorded the award of nine PPP contracts between January 2015 and 24 March 2017⁴⁷¹.

The requirements in the PPL for prior approval by the PPC⁴⁷² add another layer of regulation and bureaucracy to an already formalistic system. The SAO notes that the procedure for obtaining approval before publishing a contract notice has not produced the expected results in terms of increasing the competition and ensuring transparency, non-discrimination and efficiency in the public procurement system⁴⁷³. The additional prior-approval procedure also increases the average time needed for conducting a procurement process⁴⁷⁴ and imposes additional costs on contracting authorities, which are required to pay for expert opinions⁴⁷⁵ and the services of the PPC⁴⁷⁶.

⁴⁶⁵ Laws amending the PPL, Official Gazette Nos. 78/2015 and 192/2015.

⁴⁶⁶ Laws amending the PPL, Official Gazette No. 27/2016, deleting references to the International English Language Testing System (IELTS) language examination from the list of English-language competencies; and Official Gazette No. 120/2016, adding an exclusion in Article 8(5) for legal services and adding Article 10-b on the exclusion of contracts awarded through inter-municipal co-operation.

⁴⁶⁷ www.bjn.gov.mk

⁴⁶⁸ www.sjn.gov.mk

⁴⁶⁹ The C&PPP Law was amended three times in 2015 (Official Gazette Nos. 33/2015, 104/2015 and 215/2015). No amendments to the Law were made in 2016.

⁴⁷⁰ A 'concession' covered by the C&PPP Law is not the same as a concession as defined in the Concessions Directive. The definition of a 'PPP' in the C&PPP Law is similar to the definition of a concession in the Concessions Directive, and therefore the analysis in this report concerns PPPs as defined in the C&PPP Law.

⁴⁷¹ The MoE provided SIGMA with a copy of the PPP Register on 7 April 2017.

⁴⁷² See the commentary below on Principle 11 for an explanation of the requirements for prior approval by the PPC.

⁴⁷³ The SAO Report 15-194/9, summary section. The SAO recommends (recommendation 7) that the Government and the MoF undertake activities to re-examine the set-up and competencies of the PPC.

⁴⁷⁴ Information provided in interviews with contracting authorities in Skopje, 5 April 2017. In replies to a SIGMA survey, 27% of respondents said that obtaining PPC approval took 15 to 30 days on average, and 13% said that it took longer than 30 days. The survey, was conducted 16-25 March 2016, comprised a dozen questions and was sent to representatives of 1 350 contracting authorities (practically all of the contracting authorities registered on the ESPP). Replies to the survey were delivered anonymously online. In total, 165 responses were received within the above-mentioned time frame; see the [SIGMA 2016 report](#) published on the website of the PPO.

⁴⁷⁵ According to data received from the PPC on 21 April 2017, contracting authorities paid the equivalent of EUR 1.6 million in 2016 for expert opinions, plus the equivalent of EUR 100 000 in fees to the PPC.

⁴⁷⁶ Tariff Book on the Fees for an Application Submitted for Obtaining Approval and for an Expert Opinion Provided (Official Gazette No. 58/16).

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The PPL includes potentially severe criminal penalties and fines that apply to contracting authority employees and office-holders in institutions for the failure to comply with procedural and other requirements of the PPL⁴⁷⁷. For example, the failure to publish a negative reference or to act upon a decision of the State Appeals Commission may result in imprisonment for a period of one to five years. SIGMA interviews with contracting authorities in 2016 and 2017 indicated that these severe financial and criminal provisions have increased the likelihood of highly formalistic decision making in public procurement (with an intense focus on conformity with procedural prescriptions). The NGO sector and economic operators have also identified these provisions as problematic and propose their repeal or amendment⁴⁷⁸.

Overall, the value for the indicator 'Quality of legislative framework for public procurement and PPPs/concessions' is 4.

⁴⁷⁷ PPL, Articles 231-a to 231-c, and 232-a to 232-u.

⁴⁷⁸ The CCC's 2016 analytical publication *Challenges and Perspectives* provides an analysis that includes the recommendation to introduce gradual accountability for non-compliance with the PPL by using disciplinary measures for misdemeanour offences and leaving the regulation of penal offences to the Criminal Code. The proposals of the Macedonian Chamber of Commerce for Communications and Information Technology (MASIT) for the amendment of the PPL, dated 4 August 2016, include a recommendation to repeal or amend the PPL, Chapter XI, as well as Articles 232-a to 232-p.

Quality of legislative framework for public procurement and PPP/concessions						
This indicator measures the quality of the legislative framework for public procurement and public-private partnerships (PPP)/concessions, above and below EU thresholds. Opportunities for participation of SMEs in public procurement are assessed, as well as whether practical measures are taken to allow for proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds	
1. Level of alignment of public procurement legislation with the EU Directives	3/6
2. Scope of public procurement legislation	3/6
3. Public procurement procedures	3/4
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	6/7
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	3/5
Quality of legislation concerning PPP/concessions	
11. Coverage of legislation on PPPs/concessions	2/2
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPP/concessions	8/8
Total⁴⁷⁹	43/60

The public procurement system remains overly bureaucratic, with a focus on formalities and a lack of emphasis on efficiency. A detailed legal framework for public procurement in the classic and utilities sectors is aligned with the basic principles of the 2004 Directives. However, the framework shows deficiencies and inconsistencies in comparison with the 2014 Directives, which have not been transposed, and the new instruments and tools provided for in those Directives are lacking. The legal framework for defence has not been harmonised with the Defence Directive.

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

The PPB is a body within the MoF that has the capacity of a legal entity. The PPB is responsible for developing, implementing and monitoring public procurement policy, in addition to carrying out a wide-ranging list of activities, including the initiation of proposals for the adoption of public procurement-related law and co-ordination with the EU⁴⁸⁰. The PPB's tasks are divided between two departments, the Department for Normative Affairs, Training and International Co-operation (ten staff)

⁴⁷⁹ Point conversion ranges: 0-10=0, 11-20=1, 21-30=13, 31-40=3, 41-50=4, 51-60=5.

⁴⁸⁰ Article 12 of the PPL refers to the PPB's legal capacity, while Article 14 lists the activities assigned to the PPB.

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and the Department for ESPP, Analysis and Information Technology (eight staff). In addition, the PPL has four accounting staff and a human resource manager. The effective exercise of the PPB's statutory roles has been compromised for some time, as an appointment to the post of director, which has been vacant since September 2014, has still not been made.

The PPB prepared the current public procurement strategy and action plan for the development of the public procurement system, which covers the period 2014-2018⁴⁸¹. The strategy is comprehensive, although no chapter or substantive content addresses PPPs and concessions⁴⁸². The action plan, which is not available publicly, is regularly reviewed and updated by the PPB⁴⁸³ and includes a timetable with clearly identified deadlines. The PPB monitors compliance with the actions set out in the action plan. Over two-thirds of the measures identified in the action plan for completion in 2016 have been fulfilled. A separate draft strategy and action plan have been elaborated for e-procurement, covering the period 2016-2020, and they have been published on the PPB website⁴⁸⁴.

The PPC is an additional central public procurement institution, established in May 2014 as part of the PPB and as a separate legal entity since January 2016⁴⁸⁵. The PPC has a president, 6 members and 37 administrative staff⁴⁸⁶. The primary role of the PPC is to consider applications for prior approval submitted by contracting authorities in specific circumstances relating to technical specifications, selection criteria and framework agreements⁴⁸⁷. The PPC was established for the purpose of stimulating competition and promoting the fundamental principles of transparency, value for money and non-discrimination. However, since the establishment of the PPC, no significant change has been seen in the average number of tenderers per procedure (Figure 3)⁴⁸⁸ and the impact on bid prices appears to be limited⁴⁸⁹. In a survey carried out by SIGMA only 24 % of contracting authorities and 20% of economic operators assessed the benefits of the PPC as very useful or somewhat useful⁴⁹⁰.

⁴⁸¹ *Strategic Priorities of the Public Procurement Bureau for Further Development of the Public Procurement System 2014-18*, <http://www.bjn.gov.mk/content/documents/Strategic-Priorities.pdf>.

⁴⁸² No separate PPP/Concession strategy has been elaborated. This information was verified in an interview with the MoE, 6 April 2017.

⁴⁸³ The current version of the *Action Plan for Strategic Priorities of the Public Procurement Bureau for Further Development of the Public Procurement System 2014-18* was reviewed by the PPB on 26 December 2016, and the next review is planned for the second quarter of 2017.

⁴⁸⁴ <http://bjn.gov.mk/>.

⁴⁸⁵ PPL, Articles 14-a to 14-q, www.sjn.gov.mk.

⁴⁸⁶ Report of the Activities of the Public Procurement Council 2014-2017 No.01-7564/1, 29 May 2017 (Hereafter, PPC Report, May 2017).

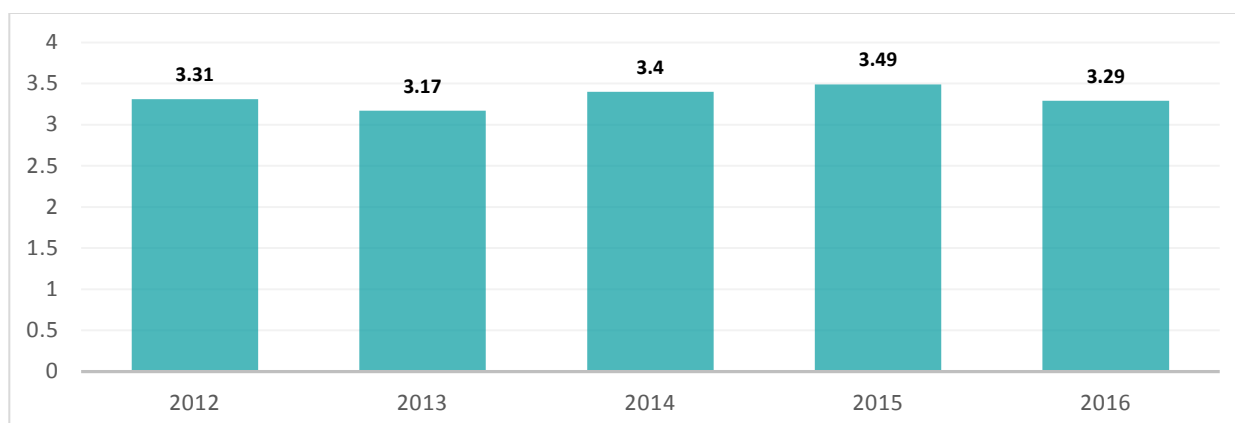
⁴⁸⁷ In 2016, 16 068 requests were submitted (PPC Report, table 6).

⁴⁸⁸ The data in Figure 3 represents the exact number of bids received through the ESPP, which currently provides the most reliable data for analysing the level of competition.

⁴⁸⁹ Survey of a representative sample of contracting authorities and economic operators conducted by SIGMA in collaboration with the national authorities in 2017: 59% of contracting authorities indicated that there had been no improvement or no significant improvement in bid prices in general since the establishment of the PPC.

⁴⁹⁰ In the SIGMA's survey in response to the question "Do you have any benefits from the Public Procurement Council (PPC)?" 69% of contracting authorities and 53% of economic operators responded that the benefits were not useful or slightly useful.

Figure 3: Average number of tenders submitted in entirely electronic procedures



Note: Data for 2012-2014 is also included for clearer analysis of the impact of the new procurement institution (the PPC).

Source: Public Procurement Bureau.

Some improvements in the operation of the PPC have been noted, such as a reduction in the number of times that approvals may be sought in some cases⁴⁹¹ and a reduction in 2015 in the cost of expert opinions⁴⁹². The PPC has also introduced some standard tender documents and technical specifications, which contracting authorities may use without having to seek the consent of the PPC. These standard technical specifications cover motor gasoline, diesel fuel and liquefied petroleum gas; cleaning products; stationery and toner cartridges; light heating oil; firewood; medicines, medical devices, drinks and sweeteners⁴⁹³. However, less than half of contracting authorities see an improvement in the quality of tender documents and the description of the subject matter of the procurement since the establishment of the PPC⁴⁹⁴.

However, the use of simplified specifications recommended by the PPC, combined with the use of the price-only award criterion, means that low-quality items are procured^{495,496}. The prescribed procedures

⁴⁹¹ Law amending the Law on Public Procurement, Official Gazette No. 78/2015, Article 101-a concerning simplified competitive procedures limiting the number of applications for approval to two.

⁴⁹² Revised List of Fees for Expert Opinions, Official Gazette No. 96/2015 (cited in PPC Report, section 1.5, paragraph 3; around 30% decrease in fees).

⁴⁹³ Regulation on the Form and Content of Standard Tender Documentation and Standard Technical Specifications, Official Gazette No. 79/2016. The PPC is preparing additional standard technical documents and standard technical specifications (PPC Report, May 2017, section 1.5).

⁴⁹⁴ Survey of a representative sample of contracting authorities and economic operators conducted by SIGMA in collaboration with the national authorities in 2017: 41% of contracting authorities note a slight or significant improvement in the quality of tender documents and 45% note a slight or significant improvement in the quality description of the subject matter of the procurement.

⁴⁹⁵ CCC (2016), "Survey Among Companies Related to their Experience of Participation in Public Procurement Procedures", CCC, Skopje. Of the companies surveyed, 78% were of the view that technical specifications were either never or rarely sufficiently detailed to guarantee the quality of the public procurement. MASIT (Chamber of Commerce for IT), in its "Proposals for Amendments to the PPL of 3 August 2016, stated: "The Law on Public Procurement has undergone many changes and [has] not guaranteed [a] stable business climate. [The] PPL has put price before quality, [and] thus [has] destroyed real competition [for] quality products and solutions. [The] PPL does not promote the principle of [the] quality product for the best price [or] promote the protection of the invested money of taxpayers." In interviews with SIGMA on 5 April 2017, contracting authorities raised concerns related to the over-simplification of specifications, in accordance with the requirements of the PPC, the practical problems faced with the standard specifications published by the PPC, and the consequent negative impact on the quality or suitability of the goods or services procured.

⁴⁹⁶ SAO Report 15-194/9, summary section, notes that the obligatory use of the lowest price as a sole criterion in the winning tender selection combined with the obligation to apply for PPC approval, reduces the genuine competition of good-quality tenders and affects the quality of goods and services purchased by contracting authorities. The SAO recommends in its report (recommendation 8) that if the Government and MoF assess that there is a need to retain the procedure for prior approval before publishing a contract notice, a number of activities should be undertaken including those linked to increased transparency of the PPC.

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create additional processing delays and costs⁴⁹⁷ for contracting authorities. The number of cancelled procedures remains high: 2 752 in 2014, 2 489 in 2015, and 2 881 in 2016⁴⁹⁸. Furthermore, the operation of the PPC lacks transparency⁴⁹⁹. Most notably, the PPC does not publish its decisions, and the list of experts is confidential and is therefore not accessible to the public.

A range of PPP-related tasks is allocated to the MoE under the C&PPP Law, including the development and implementation of a fully transparent and efficient system, the preparation of draft legislative proposals, the organisation of education and training, monitoring and analysis, and the provision of expert assistance and opinions. In practice, however, the number of activities concerning the development, support and delivery of PPPs is very limited. Article 13 of the C&PPP Law established a 15-member PPP Council, comprising representatives of ministries, the General Secretariat, the Government, the PPB, the Association of the Units of Local Self-Government, and independent experts to promote PPPs, propose PPP projects, and make proposals for amendments to PPP regulations. The PPP Council is inactive, however⁵⁰⁰.

Regarding public consultations, the National Electronic Registry of Legislation (ENER)⁵⁰¹ constitutes, in principle, a mechanism for facilitating public involvement in the legislative process, with the PPB nominally in charge of collecting and processing the comments made in the case of procurement legislation. In 2015, two sets of amendments to the PPL were adopted⁵⁰². The amendments primarily concerned the operation of the PPC and its establishment as an independent legal entity. Other changes included requirements on the increased use of e-procurement, tender documents and negative references. Consultation using ENER was carried out on the first set of amendments, including the preparation of a Regulatory Impact Assessment (RIA) report, but not on the second set of amendments. The public consultation in 2015 on the first set of amendments was launched at a very late stage in the elaboration of the legislative drafts, and the time frame for consultations was short⁵⁰³.

The PPB monitors procurement by using the ESPP, which is also used for reporting purposes. Information gathered through the ESPP covers the phases in procurement from the publication of the contract notice to the contract award. The ESPP provides access to contract notices, procurement documents and contract award notices. In general, information is publicly accessible through the ESPP and can be analysed, but the public search of data at the most detailed level is not possible. Procurement planning, contract monitoring and contract management are not provided by the ESPP. Currently, contracting authorities are not obliged to publish annual procurement plans or concluded contracts.

The value for the indicator 'Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently' is 3.

⁴⁹⁷ For more details on these prescribed procedures, see the commentary on Principle 10.

⁴⁹⁸ Data received from the Public Procurement Bureau, 17 July 2017.

⁴⁹⁹ SAO Report 15-194/9, summary section, notes that the PPC's wide discretionary powers, failure to publish decisions, and inconsistency when deciding on applications for approval, affect the transparency of PPC work and the equal treatment of contracting authorities, delay the procedures and create additional financial burdens for contracting authorities.

⁵⁰⁰ Information confirmed in a SIGMA interview with the MoE, 6 April 2017.

⁵⁰¹ www.ener.gov.mk

⁵⁰² Laws amending the PPL, Official Gazette Nos. 78/2015 (first set of amendments) and 192/2015 (second set of amendments).

⁵⁰³ The amendments were published on ENER on 20 February 2015, without prior consultation concerning the preparation of the published amendments. The draft RIA report was published on ENER on 27 February 2015, and the final RIA report on 20 April 2015; www.ener.gov.mk.

Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently

This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies are open and transparent.

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

Sub-indicators	Points
Quality of the policy framework for public procurement	
1. Quality of the strategy for development of public procurement and PPP/concessions	3/5
2. Quality of the operational action plan	2/5
3. Implementation of the strategy and the action plan	4/5
4. Monitoring of strategy implementation	3/5
Capability of central procurement institutions and their performance	
5. Adequacy of the legal framework to ensure capable institutions	6/10
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	9/20
Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement	
8. Presence and quality of monitoring and data collection	6/10
9. Accessibility of public procurement data	6/10
Total⁵⁰⁴	47/80

The procurement system benefits from an advanced e-procurement platform (ESPP), which enhances transparency. The institutional set-up concerning the PPC and the procedural requirements for prior approvals have no basis in EU public procurement directives. The PPC approval process still adds complexity, delays and financial costs to the procurement process, without demonstrating any clear evidence of benefits. The number of activities concerning the development, support and delivery of PPPs is very limited, and the PPP Council is inactive.

Key recommendations

Short-term (1-2 years)

- 1) The Government should organise a thorough, independent assessment of the impact of the functioning of the PPC, including an analysis of the benefits of the prior-approval system (including the market analysis requirements), compared with the burdens it entails. The Government should thoroughly reform the PPC and its operations, unless it decides to simply abolish the institution.
- 2) The MoF should review and revise the PPL (or prepare a new PPL) so that it is fully compliant with the 2014 EU Directives (including the abolition of the obligatory use of e-auctions and negative references), and it should submit the corresponding draft legislative amendments (or a new law) to the Government, following appropriate and full consultation.

⁵⁰⁴ Point conversion ranges: 0-12=0, 13-25=1, 26-39=2, 40-53=3, 54-67=4, 68-80=5.

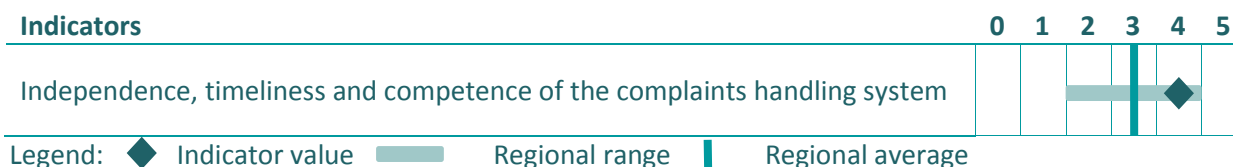
- 3) The MoF should propose amendments to the PPL to remove or reduce penalties for procurement officials for non-compliance with procedural and other requirements of the PPL, and submit these to the Government for approval.

Medium-term (3-5 years)

- 4) The MoE should strengthen institutional capacity in the area of concessions and PPPs.
- 5) The Government should prepare a new draft law on concessions/PPPs aligned with the Concessions Directive.
- 6) The MoF should prepare a draft law on defence procurement aligned with the Defence Directive.

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

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



Analysis of Principles

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

Chapter X of the PPL regulates public procurement review procedures. The five-member⁵⁰⁵ State Appeals Commission (SAC) is an independent, state-financed authority with the capacity of a legal entity⁵⁰⁶. The SAC is competent to resolve appeals concerning contract-award procedures, as prescribed by the PPL, as well as appeals with regard to procedures for the award of concessions and the conclusion of PPPs⁵⁰⁷. It is also entrusted with the resolution of appeals lodged against decisions adopted by the PPC. In addition, the SAC is required to act *ex officio* with regard to 12 major violations listed in the PPL⁵⁰⁸.

Any economic operator that has a legal interest in the award procedure and has suffered damage, or may suffer damage, as a consequence of a possible violation of the PPL, may initiate an appeal⁵⁰⁹. According to Article 200 of the PPL, contracting authorities may file an appeal against a decision of the PPC, in which case no fee is due. In addition, the State Attorney may issue a review procedure. The fees to be paid by an economic operator filing an appeal vary between the equivalent of EUR 100 and EUR 400, in addition to an administrative fee⁵¹⁰. According to the sub-indicator, the level of fees scores

⁵⁰⁵ Article 202 of the PPL stipulates that the members of the SAC are to be appointed by public competition for a period of five years, with the right to reappointment.

⁵⁰⁶ *Idem*, Article 201.

⁵⁰⁷ *Idem*, Article 200.

⁵⁰⁸ *Idem*, Articles 210 and 211.

⁵⁰⁹ *Idem*, Article 207.

⁵¹⁰ The administrative fee is MKD 250 (approximately EUR 4); www.dkzjn.mk.

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quite favourably, but in practice economic operators cite the level of fees as the key reason for deciding not to file an appeal against a procurement decision⁵¹¹.

The time limits set in the PPL for lodging appeals are shorter than those prescribed under the EU Remedies Directives⁵¹²: eight days for a regular procedure, and three days for a simplified competitive procedure. It is not possible to lodge an appeal and the related documents electronically or outside of normal office hours; the appeal must be lodged in person or by registered post⁵¹³. An appeal lodged with the SAC is published promptly on the SAC website⁵¹⁴. The effect of an appeal is the suspension of the signing and performance of the contract that is the subject of the appeal. Under Articles 217(2), 218 and 219 of the PPL, a contracting authority may submit a request to the SAC for continuation of the contract award procedure, and the SAC must make a decision on that request within three working days.

The SAC is required, in most cases, to make a decision within 15 days of receipt of the dossier of documents submitted⁵¹⁵. If the SAC fails to make a decision within the relevant statutory time period, the SAC Chairperson and members may be punished by imprisonment⁵¹⁶. The average time for the SAC to adopt a decision is ten days⁵¹⁷.

⁵¹¹ CCC (December 2016), "Survey among companies related to their experience of participation in public procurement procedures", Skopje. When asked why they rarely or never filed an appeal in public procurement procedures, 32% of the companies surveyed indicated that the reason was the high fees.

⁵¹² Directive 89/665/EEC on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Review Procedures to the Award of Public Supply and Public Works Contracts, OJ L 395/33, and subsequent amendments; and Directive 92/13/EEC on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Community Rules on the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Telecommunications Sectors, OJ L 76/7, and subsequent amendments.

⁵¹³ PPL, Article 214.

⁵¹⁴ In SIGMA's interview with the SAC on 5 April 2017, the SAC confirmed that notices of appeals are published within one working day of their receipt. On the SAC website, a sample of cases checked and confirmed is provided.

⁵¹⁵ PPL, Article 224(6).

⁵¹⁶ PPL, Article 232-t provides for punishment by imprisonment for a period of one to five years.

⁵¹⁷ According to data received from the SAC.

Table 9: Key characteristics of the remedies system

Complaints (total number, including complaints against decisions of the Public Procurement Council – operational from May 2014)	2014	2015 ⁵¹⁸	2016
Number of complaints submitted	591	626	623
Number of decisions taken	874	610	606
Number of complaints accepted (upheld)	220	238	271
Number of complaints rejected	494	269	221
Complaints against decisions of the Public Procurement Council			
Number of complaints submitted	110	91	41
Number of complaints accepted (upheld)	24	17	7
Number of complaints rejected	83	72	32
Share of decisions published, processing time and challenges to the next level			
Share of decisions published	100%	100%	100%
Average time of processing the case before the SAC (days)	15	8	7
Number of SAC decisions challenged to the next level	86	91	65

Source: State Appeals Commission.

SAC decisions include references to the applicable laws and principles, the facts of the case, the decision together with the reasons, and any sanctions ordered by the SAC. The SAC has a range of remedies available, including the annulment of concluded contracts and framework agreements in specific cases. The PPL does not include provisions for alternative penalties in the case of ineffectiveness, and it is not fully aligned with the Remedies Directives. The remedy of damages is pursued through the courts. In the event of failure to comply with the SAC decision, the SAC will consider that the contract award procedure has not been conducted in compliance with the PPL⁵¹⁹. Decisions of the SAC may be appealed to the administrative courts. However, the administrative courts do not have any special means for handling cases related to public procurement.

The SAC website provides comprehensive information on the process for appeal, including details of the fees. All decisions by the SAC are published promptly on its website, within a few working days of the decision⁵²⁰. The search facilities on the SAC website have improved since 2015 and allow interested parties to search for decisions by using specific fields, including number, date, parties, subject, and type of procurement procedure. There is not, however, a free-text search facility, permits the entire database to be searched for decisions – for example, by reference to particular provisions of the PPL. The lack of such a facility hampers the effective use of the database by restricting the nature of the analysis available.

Overall, the value for the indicator ‘Independence, timeliness and competence of the complaints handling system’ is 4.

⁵¹⁸ The method for registering cases changed as of 1 January 2015, with each appeal registered separately, even when several appeals concern the same procedure.

⁵¹⁹ PPL, Article 200.

⁵²⁰ SAC website, sample of cases checked and confirmed.

Independence, timeliness and competence of the complaints handling system

This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with the EU Directives. Then, sub-indicators measure the strength of the institutional set-up for handling complaints. Next, the actual performance of the review system is measured using a combination of qualitative and quantitative indicators. Finally, the performance of the remedies system for PPP/concessions is evaluated.

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

Sub-indicators	Points
The legislation sets out the mechanisms for handling complaints in compliance with EU Directives	
1. Right to challenge public procurement decisions	5/5
2. Time limit for challenging decisions taken by contracting authorities/entities	0/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties	2/3
4. Mechanisms to ensure implementation of the review body's resolutions	2/2
5. Right to challenge decisions of the review body	3/3
The 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	4/4
8. Public availability and timeliness of data on review system	3/4
Performance of the review system	
9. Fairness of fee rates initiating review procedures	2/3
10. Actual processing time of complaints	3/3
11. Complaint submission in practice	2/4
12. Quality of decision making by review body	3/4
13. Cases changed or returned after verification by court (%)	1/2
Performance of the remedies system in PPPs/concessions	
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures	5/5
15. Legal provisions ensure independence of the review body for PPP/concessions and its members	5/5
16. Timeliness and effectiveness of complaints handling system	5/5
Total⁵²¹	52/61

The regulatory framework and institutional set-up for review are in place, including the efficient handling of complaints by the SAC. Review provisions have been substantially aligned with the Remedies Directives, but not fully. The efficiency and transparency of the system could be further improved through electronic submission of complaints to the SAC and more user-friendly functions for searching SAC decisions.

⁵²¹ Point conversion ranges: 0-8=0, 9-19=1, 20-30=2, 31-41=3, 42-52=4, 63-61=5.

Key recommendations

Short-term (1-2 years)

- 1) The SAC should put in place a web-supported search engine that can be easily navigated to enable the browsing of decisions by type of problem (such as the legal provisions involved), for example by free-text search.
- 2) The SAC should improve the IT system to permit electronic submission and handling of complaints.

Medium-term (3-5 years)

- 3) The SAC and the MoF should revise and submit appropriate draft legislative amendments to the Government to ensure full alignment of the PPL with the Remedies Directives, including issues that have been specifically identified, such as the deadline for lodging appeals, the remedy for ineffectiveness, and alternative penalties.
- 4) Administrative courts should ensure the increased participation of their members in training activities that are specific to public procurement, or in other activities aimed at improving their skills in handling procurement-related cases.

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

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



Analysis of Principles

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

The comprehensive e-procurement system (the ESPP), which has been managed by the PPB for several years, provides the basic framework for ensuring the transparency of procurement opportunities and the equal access of economic operators to public procurement falling under the PPL⁵²². Contracting authorities publish contract notices and tender documents on the ESPP for all contracts covered by the PPL, other than cases where exceptions or exclusions apply. In 2016, almost half of all procedures were conducted by using e-procurement⁵²³. The registration fees to use the ESPP are higher for foreign economic operators than for national ones⁵²⁴. The ESPP was redesigned and upgraded in 2016, and this process included changes to improve user functionality. Regular, practical updates on changes were published during 2016 on the ESPP website⁵²⁵, and fully updated manuals for contracting authorities and economic operators on how to use the ESPP were issued in January 2017⁵²⁶. The ESPP facilitates the use of modern procurement techniques and methods for the award of contracts both above and below the relevant EU financial thresholds, such as e-notices, publication and downloading of procurement documents, e-submission, e-evaluation and e-auctions.

The number and percentage of contracts awarded without prior publication of a contract notice as a percentage of total contracts awarded has dropped⁵²⁷ since the introduction of the requirement to obtain prior approval from the PPC in specific cases for awarding contracts without prior publication⁵²⁸ (Figure 4).

⁵²² <https://e-nabavki.gov.mk/PublicAccess/Home.aspx#/home>

⁵²³ In 2016, 8 878 of 18 444 competitive procurement procedures used e-procurement.

⁵²⁴ "List of Rates for the Fees for Using the Electronic System for Public Procurement of 30 March 2012", Official Gazette No. 44/2012. The rate for foreign economic operators is EUR 200 compared to between MKD 2 000 and MKD 8 000 (approximately between EUR 32 and EUR 130) for national economic operators.

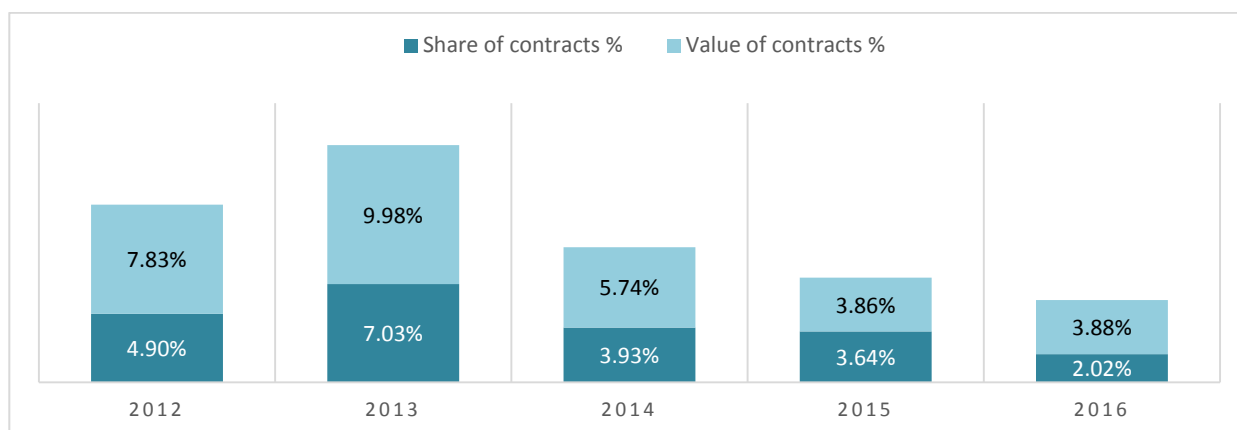
⁵²⁵ Information provided on the ESPP website's news and documents pages.

⁵²⁶ PPB (January 2017), *Manual on How to Use the ESPP for Contracting Authorities* and *Manual on How to Use the ESPP for Economic Operators* (accessed through the ESPP).

⁵²⁷ The number of procurement procedures conducted by using the negotiated procedure without prior publication of a contract notice represented 7.03% of all procurement procedures in 2014, 3.64% in 2015, and 3.53% in 2016.

⁵²⁸ Article 99 of the PPL requires a contracting authority to obtain prior approval of the PPC in some, but not all, cases permitting the award of a contract using a negotiated procedure without prior publication of a contract notice.

**Figure 4. Contracts awarded without prior publication of notice
(as a share of all contracts awarded)**



Source: Public Procurement Bureau.

The requirement to use the lowest-price award criterion in most circumstances⁵²⁹ is a major weakness of the country's public procurement system, and economic operators have identified this obligation as the most significant problem of the system in practice⁵³⁰. The combination of the lowest-price criterion, the mandatory use of e-auctions, and oversimplified technical specifications is unlikely to ensure the most efficient use of public funds⁵³¹.

The PPL provides for the establishment and use of framework agreements. The number of framework agreements awarded on an annual basis has fallen significantly since the introduction of the requirement for prior approval of the PPC when a contracting authority intends to conclude a multiple framework agreement with fewer than seven economic operators⁵³² (Figure 5). Centralised purchasing is not widespread⁵³³.

⁵²⁹ PPL, Article 160(1).

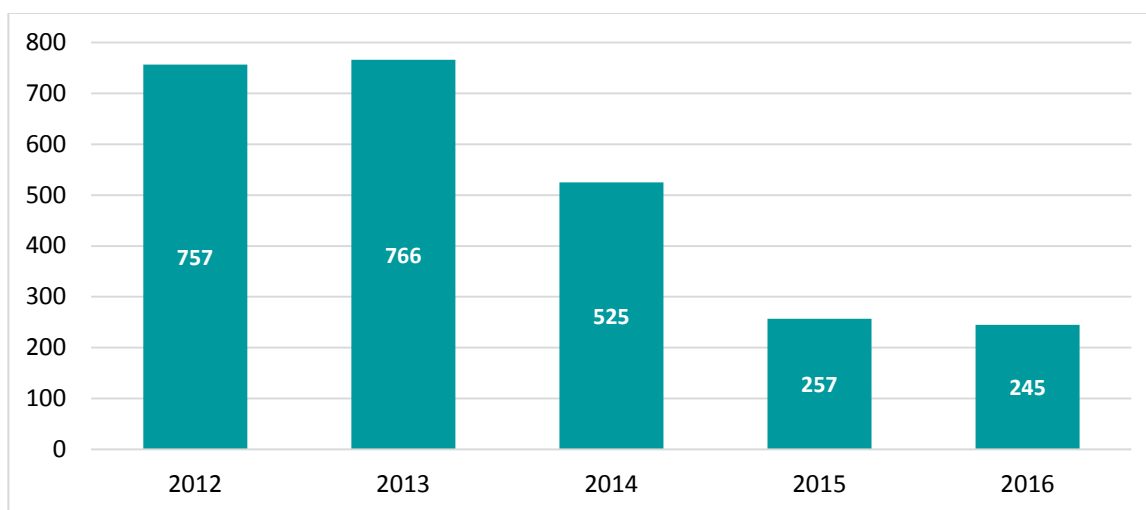
⁵³⁰ CCC (December 2016), "Survey among companies relating to their experience of participation in public procurement procedures", Skopje. In responding to the question on the "main problems faced by companies in public procurement procedures", the lowest-price criterion was identified as a problem by 47.8% of the companies surveyed (multiple answers were allowed).

⁵³¹ Ditto. The report also notes that when the lowest-price criterion is used as the single award criterion, contracting authorities need to use technical specifications to define quality. In response to the survey's questionnaire, 78% of economic operators were of the opinion that technical specifications never or rarely guaranteed high-quality public procurement procedures.

⁵³² PPL, Article 118(2)(3) and Law No. 130/2014 amending the PPL, Article 36-b.

⁵³³ Interviews with the PPB and contracting authorities during 4-6 April 2017 confirmed that a government unit for general and common works carries out some purchases that are common to various contracting authorities. Some centralised purchasing is also carried out in the health sector, but in general procurement is decentralised.

Figure 5: Contract notices published for setting up framework agreements



Note: Data for 2012-2014 is also included for clearer analysis of the impact of the new procurement institution (the PPC).
Source: Public Procurement Bureau.

Contracting authorities are not currently required to publish annual procurement plans⁵³⁴, and the PPL does not address the issue of contract management. There is no evidence of systematic *ex post* evaluation of the procurement process and of contract management, evaluation of concluded contracts, or a common, standard approach to reviewing and learning from problems that may arise during contract execution. Neither the PPB nor any other stakeholder provides any guidance on this complex and important issue⁵³⁵.

The value for the indicator 'Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations' is 2.

⁵³⁴ Article 26(1) of the PPL requires contracting authorities to adopt plans based on determined sources of funding, but they may amend or supplement the annual procurement plan during the year [PPL, Article 26(3)]. Article 26a of the PPL provides for the awarding of multi-year contracts and for necessary variations during the validity of the contract.

⁵³⁵ Information confirmed in SIGMA interviews with the PPB, 3 April 2017.

Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations

This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.

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

Sub-indicators	Points
Planning and preparation of the public procurement procedure	
1. Due attention is given to the planning process	2/5
2. Presence and use of cost estimation methods and budgeting	2/2
3. Perceived quality of tender documentation by contracting authorities and economic operators (%)	2/4
Competitiveness and transparency of conducted procedures	
4. Perceived fairness of procedures by businesses (%)	3/4
5. Contracts awarded by competitive procedures (%)	5/5
6. Contracts awarded based on acquisition price only (%)	0/5
7. Average number of tenders submitted per competitive procedure	1/3
8. Contracts awarded when one tenderer submitted a tender (%)	1/2
Use of modern procurement methods	
9. Adequacy of regulatory framework for and use of framework agreements	1/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing	1/5
11. Penetration of e-procurement within the procurement system	4/5
Contract management and performance monitoring	
12. Presence of mechanisms requiring and enabling contract management	0/6
13. Contracts amended after award (%)	4/4
14. Extent of <i>ex post</i> evaluation of the procurement process and of contract performance	0/6
Risk management for preserving the integrity of the public procurement system	
15. Existence of basic integrity tools	2/4
Total⁵³⁶	28/65

The mandatory publication of notices and tender documents has resulted in increased use of e-procurement and e-auctions, and the share of negotiated procedures without publication is small. The use of centralised purchasing is limited, and the number of framework agreements awarded has declined in the period under review. No systematic risk management assessments are carried out, nor are reviews of the conduct of procurement processes or contract performance.

⁵³⁶ Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 35-45=3, 46-56=4, 57-65=5.

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

The PPB and ESPP websites provide access to guidelines, manuals, and standard form procurement and contract documents. The third edition of the comprehensive *Manual on Public Procurement* was published by the PPB in January 2016. Other 2016 publications of the PPB included brochures on the prevention of corruption in public procurement, the consent of the PPC, and legal protection. A new brochure on award criteria, the evaluation of bids and the award of contracts, published in March 2017, includes practical tips as well as legal analysis. All these publications can be downloaded free of charge from the PPB website's publications page⁵³⁷. The PPB also provides a telephone support service for contracting authorities and economic operators, and it publishes responses to "Frequently Asked Questions" (FAQs) on its website. Information is available without delay and is user-friendly. The PPB has established a good reputation among the procurement community: according to a survey conducted by SIGMA in June 2017, 94% of contracting authorities and 88% of economic operators who contacted the PPB seeking advice or support had considered the answers received useful. Usually the answer, when not provided in a telephone call, was given within a week⁵³⁸. The PPC has published standard tender and technical-specification documents⁵³⁹, and also has FAQs on its website⁵⁴⁰.

Co-operation has been established between the key institutions (PPB, SAC and PPC), with regular meetings to discuss the interpretation of the PPL⁵⁴¹, although stakeholders⁵⁴² are critical of the apparent inconsistencies between the interpretations of the PPL by the three institutions and the SAO has recommended that the key institutions should undertake activities to improve their mutual co-operation, connection of information systems and data exchange⁵⁴³.

Procurement officials are obliged to hold a public procurement certificate. To obtain this certificate, officials have to attend, for a fee, a mandatory certification/re-certification training programme and to successfully pass an examination. The initial mandatory certification training programme lasts five days, followed by an examination. Successful participants are issued a certificate that is valid for three years. Re-certification, involving attendance at a one-day course, is required when the original certificate expires. The curriculum and training sessions of the mandatory certification training programme are prepared and organised by the PPB.⁵⁴⁴ In 2016, a total of 621 procurement officials participated in certification/recertification training⁵⁴⁵. Training materials for the programmes were last updated in January 2017. Information on the training activities scheduled by the PPB for procurement officers and economic operators is easily available in a comprehensive form in the Training Diary (on the PPB's website). Trainers from the private sector and from other organisations also offer *ad hoc* training to

⁵³⁷ http://bjn.gov.mk/bjn-portal/wordpress/?page_id=31&lang=en

⁵³⁸ Survey of a representative sample of contracting authorities and economic operators conducted by SIGMA in collaboration with the national authorities in June 2017.

⁵³⁹ Regulation on the Form and Content of Standard Tender Documentation and Standard Technical Specifications, Official Gazette No. 79/16.

⁵⁴⁰ http://sjn.gov.mk/najchesti_prashanja.html

⁵⁴¹ In SIGMA's interview with the PPB, it was confirmed that the PPB met informally with the SAC and the PPC on a regular basis.

⁵⁴² Information provided in SIGMA interviews with both economic operators and contracting authorities, 3-6 April 2016.

⁵⁴³ SAO Report 15-194/9, Recommendation 4.

⁵⁴⁴ Article 14-a of the PPL sets out the PPB's obligations in relation to the provision of training for public procurement officers. See also the "Rulebook on the Public Procurement Education Programme, the Training-the-Trainers Programme, the Form and Contents of the Certificate for Having Passed the Examination for Public Procurement Officers and Public Procurement Trainers, as well as the Amount of Fee Paid by Participants in the Training", Official Gazette No. 90/12.

⁵⁴⁵ Data received from the PPB.

economic operators and contracting authorities. In 2016-2017 the PPC as well has been providing training for experts⁵⁴⁶. The MoE did not provide any specific training on PPPs in 2016.

Overall, the value for the indicator 'Availability and quality of support to contracting authorities and economic operators to strengthen the professionalisation of procurement operations' is 4.

Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations						
This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.						
This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Availability and quality of manuals, guidelines, standard tender documents and other operational tools	
1. Availability and quality of manuals and guidelines	4/5
2. Availability and quality of standard tender documents, standard forms and standard contract models	4/5
Availability and quality of training and advisory support	
3. Access to quality training for procurement staff	3/5
4. Availability of advice and support for contracting authorities and economic operators	3/5
Procurement procedures cancelled	
5. Procurement procedures cancelled (%)	3/5
Total⁵⁴⁷	17/25

High-quality manuals, guidelines, standard tender documents and other operational tools are regularly updated and are easily available on the PPB website. The PPB provides support and advice on the interpretation of legal provisions and other practical matters. Regular training is available to procurement staff and economic operators, both through the PPB and on the market.

⁵⁴⁶ The PPC offers, for example, 11 one-day training sessions for experts on the laws and regulations of the PPC, procedural requirements, ways of improving expert opinions and ways of improving the quality of tender documents, as well as thematic training on areas such as healthcare, food and the automotive industry. Further details are set out in the PPC Report, May 2017. The PPC website training page, www.sjn.gov.mk.

⁵⁴⁷ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-25=5.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should revise and submit appropriate draft legislative amendments to the Government that require contracting authorities to publish annual procurement action plans on the ESPP, in accordance with the Open Government Action Plan 2016-2018.
- 2) The MoF should prepare practical guidelines and implement training on contract management for contracting authorities.
- 3) The MoE should prepare and deliver training for contracting authorities and economic operators on planning, procuring and managing PPPs.

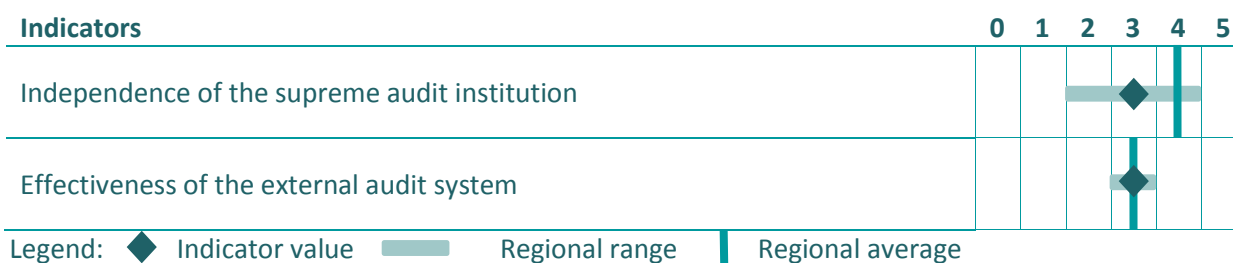
Medium-term (3-5 years)

- 4) The MoF should prepare guidance/handbooks that provide practically focused assistance to contracting authorities, with a view to improving contract review processes.

External audit

Key requirement: The constitutional and legal frameworks guarantee the independence, mandate and organisation of the supreme audit institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high quality audits that impact on public sector functioning.

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



Analysis of Principles

Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.

The SAO has no legal basis in the Constitution. The constitutional amendment submitted to the parliament in 2014, which stipulates that the SAO is an independent body for the audit of public funds, is still awaiting parliamentary approval along with other constitutional amendments. The financial and operational independence of the SAO is, however, clearly regulated by the SAL. While there have been no specific instances of interference in the SAO operations undermining its independence, its lack of anchorage in the constitution creates the risk that the SAO may not be guaranteed any legal protection by the Supreme Court.

While the SAO's budget is an integral part of the overall budget of the country, a separate procedure applies for its approval. The SAO submits its budget request to the Parliament, which approves the section for the SAO separately when voting for adoption of the national budget⁵⁴⁸. In terms of budget

⁵⁴⁸ SAL, Article 12.

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execution, the SAO is one of 92 first-level budget organisations and all payments are processed through the treasury single account. In this regard, the SAO has not experienced any undue interference from the Executive.

The SAO's mandate is exhaustive and covers all aspects relevant to the functioning of a supreme audit institution (SAI)⁵⁴⁹. It empowers the SAO to carry out regularity (financial and compliance) and performance audits in accordance with international auditing standards⁵⁵⁰, and all public financial operations are subject to audit by the SAO⁵⁵¹. The SAO is authorised to submit reports to the Parliament, and to make them public. It is required to present an annual report to the Parliament⁵⁵² as well as its report on the audit of the national budget⁵⁵³. The Law also provides the SAO with the right to access all required documents, information and premises⁵⁵⁴, and guarantees its operational independence⁵⁵⁵.

The SAL regulates the appointment and dismissal of the Auditor General and the Deputy Auditor General. They are appointed by the Parliament⁵⁵⁶ for nine-year mandates with no possibility of re-election.

In February 2015, state auditors changed to administrative officer status with entry into force of the Law on Public Sector Employees⁵⁵⁷ and the Law on Administrative Servants⁵⁵⁸. Following this change, the SAO adopted new regulations on internal organisation and systematisation in June 2015.

The SAO's strategic development plan covering 2013-2017 is published on its website and the SAO reports on progress to the Parliament through its annual activity report. The SAO delivers on its mandate through 80 auditors supported by 12 administrative support staff; 70 auditors hold the authorised state auditor certificate⁵⁵⁹.

The 2017 Balkan Barometer survey indicates that only 27% of respondents agree or tend to agree that the SAO operates independently of political influence, which is around the average for SAIs in the region. This is also comparable to the scores for other oversight institutions in the country, such as the Ombudsman (31%) and the Judiciary (23%).

As a result of the above, the value for the indicator 'Independence of the supreme audit institution' is 3.

⁵⁴⁹ *Idem*, Articles 3 and 22.

⁵⁵⁰ *Idem*, Article 18.

⁵⁵¹ *Idem*, Article 22.

⁵⁵² *Idem*, Article 33.

⁵⁵³ *Idem*, Article 34.

⁵⁵⁴ *Idem*, Articles 24 and 25.

⁵⁵⁵ *idem*, Article 3, point 4.

⁵⁵⁶ *Idem*, Article 4.

⁵⁵⁷ Law on Public Sector Employees, Official Gazette No. 27/2014.

⁵⁵⁸ Law on Administrative Servants, Official Gazette No. 27/2014.

⁵⁵⁹ SAO, Annual Report 2015.

Independence of the supreme audit institution

This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.

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

Sub-indicators	Points
1. Constitutional and legal independence of the SAI	1/4
2. Organisational and managerial independence of the SAI	5/5
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)	3/3
4. Access to information and premises	1/1
5. Perceptions of SAI independence by population (%)	0/3
Total⁵⁶⁰	10/16

The independence, mandate and organisation of the SAO are provided for in the SAL, but they are not established and protected by the Constitution. In practice, no interference from the Executive has been experienced, but a majority of respondents to the 2017 Balkan Barometer survey do not perceive the SAO as independent.

Principle 16: The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

The SAO's mandate covers all public financial operations including the budget of the country, social insurance funds, budget spending units, local governments, public enterprises and other beneficiaries of public funds.

The SAO does not have a strategic multiannual system to prioritise its work over the longer term. The SAO, however, conducts audits according to its annual audit programme, which it determines using a risk-based approach as it does not have the capacity to audit all institutions included in its mandate annually. The SAO is also required to supervise the financial and material operations of political parties⁵⁶¹, and since 2014 it has applied the same risk-based approach to determine which political parties to audit and include in its annual work programme.

In 2016, the SAO carried out 46 audits (53 in 2015), including 39 regularity audits and 6 performance audits on a range of topics. While the mandatory audits of the national budget and the social insurance funds are conducted annually⁵⁶², the SAO's audit programme indicates that only 4 out of 15 ministries were subjected to regularity audits in 2015 and 2016. SAO performance audit coverage was more extensive, however, with audits carried out across most government sectors.

The SAL requires that audits be carried out in accordance with the ISSAIs⁵⁶³. In line with its ISSAI Implementation Strategy, the SAO adopted new manuals for regularity audits and performance audits

⁵⁶⁰ Point conversion ranges: 0-2=0, 3-5=1, 6-8=2, 9-11=3, 12-14=4, 15-16=5.

⁵⁶¹ The Law on Financing Political Parties, Article 26, Official Gazette No. 148/2011.

⁵⁶² SAL, Article 23.

⁵⁶³ SAL, Article 18.

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in April 2014, which it applied in carrying out its annual audit programme for 2015⁵⁶⁴. In 2016, the SAO issued two further manuals: one for IT audits and another for follow-up of recommendations.

The SAO has quality control and quality assurance procedures in place to ensure compliance with the standards of the manuals. Quality control is embedded in the entire audit process and covers all audit phases. Quality assurance reviews are conducted by the SAO's independent review team and focus on finalised audits. In 2015, the SAO conducted quality assurance reviews of three audit files⁵⁶⁵, and the review reports indicate the audits were conducted in accordance with the standards of the SAO manuals.

The SAO is involved in a project to implement an audit management system (AMS) with the support of the Office of the Auditor General of Norway, aimed at improving the SAO efficiency and the quality of audit work. Full AMS implementation and application are expected by the end of 2017.

The SAO also monitors implementation of its audit recommendations. The SAO's 2015 Annual Report indicates that only 147 (46%) of the 322 recommendations issued in 2015 and due for implementation were completely or partially implemented. The report also indicates that the implementation rate for recommendations issued in 2014 was 67%.

The Finance and Budget Committee of the Assembly reviews the SAO's annual reports as well as its opinion on the Government's Annual Financial Report, which is submitted to the Assembly no later than 30 June each year. The Parliament can make use of other audit reports published by the SAO at its own discretion, but there are no fixed procedures for their review by the Finance and Budget Committee, and in practice they are not reviewed. The SAO is attempting to develop co-operation with the Parliament through a twinning project commencing in 2017 with the National Audit Office of Bulgaria and the State Audit Office of Croatia.

While the SAO publishes all audit reports on its website and puts efforts into producing annual reports that are easy to read and understand, it does not communicate proactively with the media, the Parliament or the wider public through press conferences, press releases or other means. The 2017 Balkan Barometer survey reveals that 36% of the population trusts the SAO, and a similar percentage (39%) believes that the SAI is effective in holding the Government to account, both of which are around the averages for SAIs in the region. These rates are also comparable to other institutions in the country such as the Parliament, Ombudsman and the judiciary, while civil society organisations are seen by citizens as being more effective in holding the Government to account (47%).

As a result of the above, the value for the indicator 'Effectiveness of the external audit system' is 3.

⁵⁶⁴ Drafted as part of participation in the 3i Programme, an ISSAI implementation initiative developed by the International Organisation of Supreme Audit Institutions (INTOSAI) Development Initiative (IDI).

⁵⁶⁵ The regularity audit of the Ministry of Defense, the regularity audit of the National Gallery of Macedonia, and a performance audit of the University Clinic of Pediatric Surgery public health care institution.

Effectiveness of the external audit system

This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits. (e.g. through its manuals and quality assurance system).

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

Sub-indicators	Points
1. Coverage of mandate by external audit	6/6
2. Compliance of audit methodology with ISSAIs	6/6
3. Quality control and quality assurance	6/6
4. Implementation of SAI recommendations	2/6
5. Use of SAI reports by the legislature	0/6
Total⁵⁶⁶	20/30

The SAO has developed an institutional framework conducive to producing audit reports that meet the ISSAIs. While all mandatory regularity audits are undertaken annually, the overall regularity audit coverage of public institutions is more limited. The impact of the SAO audits is limited, however the Parliament does not use the audit reports to their full extent to hold the Government accountable, and many of its recommendations are not implemented.

Key recommendations

Short-term (1-2 years)

- 1) The SAO should develop a multi-annual audit strategy to prioritise its work, taking into account the need to maintain quality and ensure adequate audit coverage over the longer term.
- 2) The SAO should take further measures to improve its annual audit coverage.

Medium-term (3-5 years)

- 3) The SAO should continue making efforts to co-operate with the Assembly to increase the impact of its audit work, especially by raising the interest and understanding of members of Parliament concerning performance audit results.
- 4) The SAO should communicate more proactively with the media and the wider public to explain audit results and publicise its role on the basis of concrete audit examples.

⁵⁶⁶ Point conversion ranges: 0–5=0, 6–10 2=1, 11–15=2, 16–21=3, 22–25=4, 26–30=5.

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