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Monitoring Report:

The
Principles
of Public
Administration

MONTENEGRO

May
2019

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS	2
INTRODUCTION.....	3
SERVICE DELIVERY	4
1. State of play and main developments: July 2017 – March 2019	5
2. Analysis.....	6
PUBLIC FINANCIAL MANAGEMENT – PUBLIC PROCUREMENT	19
1. State of play and main developments: July 2017 – March 2019	20
2. Analysis.....	21
Public procurement.....	21

LIST OF ABBREVIATIONS AND ACRONYMS

AIA	Administration of Inspection Affairs
CAF	Common Assessment Framework
CIT	corporate income tax
EC	European Commission
EFQM	European Foundation for Quality Management
EU	European Union
GSB	Government Service Bus
LAP	Law on Administrative Procedures
MoF	Ministry of Finance
MONSTAT	Statistical Office of Montenegro
MPA	Ministry of Public Administration
NGO	non-governmental organization
OECD	Organisation for Economic Co-operation and Development
PA	Property Administration
PAR	public administration reform
PIT	personal income tax
PP Portal	Public Procurement Portal
PPA	Public Procurement Agency
PPL	Public Procurement Law
PPP	public private partnership
RIA	Regulatory Impact Assessment
SAI	State Audit Institution
SC	State Commission for the Review of Public Procurement Procedures
SDIS	Strategy for the Development of Information Society
TQM	total quality management
UNDP	United Nations Development Programme
VAT	value-added tax

INTRODUCTION

This 2019 SIGMA Monitoring Report focuses on selected Principles in the service delivery and public finance management (public procurement) areas of the *Principles of Public Administration*¹. Comprehensive assessment of all areas of public administration reform (PAR) in 2017 showed that Montenegro had made gradual progress in many PAR areas, but it also highlighted challenges in the provision of administrative services and the functioning of public procurement, including the effectiveness of the remedies system. This 2019 report first provides an overview of the state of play and main developments for each of the two main areas, followed by detailed analyses of the selected three Principles in the service delivery area and the four Principles focusing on public procurement. The assessment is based on the *Methodological Framework for the Principles of Public Administration*² and covers the July 2017-March 2019 period. Key short- and medium-term recommendations are provided at the end of each section.

Indicator values are compared with the results of the 2017 Monitoring Report³. Although this report is part of a regional series, no regional averages are presented for the 2019 indicator values because this round of assessments was designed to perform detailed assessments of a limited number of areas, rather than to carry out full comparative overviews⁴.

The values for the three indicators analysed in the service delivery area all rose, mainly owing to improvements in the policy framework for citizen-oriented service delivery, as well as a smaller share of administrative acts being repealed or changed by the Administrative Court, and the establishment of interoperability among selected basic state registers. Still, the once-only principle stipulated by the Law on Administrative Procedures (LAP) is not being implemented consistently, as evidenced by several examples. Three of the four indicators covering public procurement system functioning remained unchanged, as no significant progress has been made since 2017. Improvements in public procurement efficiency, non-discrimination, transparency and equal treatment are mostly the result of better data availability. Consequently, many recommendations from 2017 are still relevant for 2019 in the public procurement area.

SIGMA draws on multiple sources of evidence for its assessments and wishes to thank the Government for its collaboration in providing the necessary administrative data and documentation, as well as for its support during fact-checking of the draft reports.

Focus areas for the 2019 Monitoring Report were selected jointly by the Organisation for Economic Co-operation and Development (OECD) and the European Commission (EC). The quality and accessibility of public services as well as the transparency, competitiveness and fairness of public procurement procedures are relevant for the ongoing accession negotiations with Montenegro, and for the EC's overall Enlargement perspective⁵. Although analytical findings and recommendations are addressed to the Government, they are also designed to contribute to this policy dialogue.

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

² OECD (2019), *Methodological Framework for the Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-May-2019.pdf>.

³ OECD (2017), *Monitoring Report: Montenegro*, OECD, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Montenegro.pdf>.

⁴ Recent Monitoring Reports are available at <http://www.sigmaweb.org/publications/monitoring-reports.htm>.

⁵ https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf.



SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: JULY 2017 – MARCH 2019

1.1. State of play

The Public Administration Reform Strategy 2016-2020 (PAR Strategy) and the Strategy for the Development of Information Society until 2020 (SDIS) make up the strategic framework for the service delivery area (including e-services). The main strategic objectives are to improve the efficiency and effectiveness of administrative services, to set up the interoperability of key state registers, and to increase the number of e-services as well as citizen satisfaction with service quality.

The Ministry of Public Administration (the MPA) co-ordinates public service delivery, while the Ministry of Finance (the MoF) is responsible for leading the simplification of administrative procedures. The Public Administration Reform Council (PAR Council) is co-ordinating implementation of the PAR Strategy, including the service delivery area at the political level, while the Council for Competitiveness has been established to co-ordinate activities related to simplification of procedures in the business environment.

The administration is following the basic standards of good administration stipulated in the Law on Administrative Procedures (LAP)⁶ that eventually entered into force in July 2017. Authorities state the reasons for their decisions and inform citizens of their right to appeal. Still, some key innovations of the law (such as the once-only principle) have not yet been implemented. There are numerous examples of procedures where the applicants are required to submit information to the state that is already being kept in one of the state's registers (e.g. excerpts from the company register when applying for licences and permits).

Infrastructure for the interoperability of registers has been put in place in the form of the Government Service Bus (GSB), and it is possible to exchange data among the first set of key registers, including the population registry and the business registry. However, adjustments are yet to be made to business processes and to relevant regulations to effectively improve access to services and reduce the administrative burden.

1.2. Main developments

The Council for Competitiveness, established by the government on 29 August 2017, met three times in 2018. On 11 January 2018, the Government adopted the PAR Strategy Action Plan for 2018-2020, which includes a chapter on activities to improve service delivery. Furthermore, the Government adopted the 2018 Action Plan for SDIS on 29 March 2018 (together with the report on implementation of the Action Plan for 2017).

The GSB became functional at the end of 2018. Registers already connected include the Central Population Register, the Central Register of Business Entities, the Central Registry of Tax Payers and Insured, the Register of Children in Educational Institutions and the Register of Criminal Records.

To ensure full implementation of the 2017 Law on Electronic Identification and Electronic Signature⁷, the Government has issued numerous sublegal acts, including a rulebook on conditions to be met by a qualified certification service provider, rulebook on minimum technical standards and accompanying procedures to determine the security level of electronic identification systems, and rulebook on measures and activities for protecting certificates for electronic signatures and electronic seals⁸. In addition, the MPA, in co-operation with the MoF, developed a registry of licences and permits that has been published on the e-Government portal⁹.

⁶ Official Gazette No. 56/2014.

⁷ Official Gazette No. 31/2017.

⁸ Official Gazette No. 53/2018.

⁹ <http://www.euprava.me/elicence1>.

2. ANALYSIS

This analysis covers Principles 1, 2 and 3 for the service delivery area. It includes an analysis of the indicator(s) and sub-indicators used to assess the Principle, and an overall summary of the state of play. Short- and medium-term recommendations are presented at the end of the section.

Improvements in monitoring implementation of the policy framework for service delivery, as well as greater use of digital channels by companies declaring and paying taxes, have helped raise the value for the indicator on citizen-oriented service delivery. The value for the indicator measuring the fairness and efficiency of administrative procedures has further improved because the share of administrative acts repealed or changed by the Administrative Court has decreased considerably. Mainly due to recent improvements in the interoperability of state registers, the value for the indicator measuring the existence of enablers for public service delivery has improved as well.

Overall, the indicator values have improved.

Indicators	0	1	2	3	4	5
Citizen-oriented service delivery			□	◆		
Fairness and efficiency of administrative procedures					□	◆
Existence of enablers for public service delivery		□	◆			

Legend: □ 2017 indicator value ◆ 2019 indicator value

Analysis of Principles

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

The PAR Strategy¹⁰ and the SDIS¹¹ establish the government-level strategic objectives for the service delivery area, including digital service delivery. The objectives of the PAR Strategy cover the wider service delivery area, including the quality of administrative services, while the SDIS focuses on overall digitalisation, including broadband infrastructure and cyber security. Both strategies cover interoperability of registers as well as delivery of electronic services. The action plans of the strategies¹² define activities for achieving the objectives and are generally aligned regarding the initiatives covered by both strategies¹³.

Annual reports are prepared on the implementation of the two strategies. PAR Strategy implementation reports monitor progress towards the achievement of objectives, while the reports on SDIS implementation focus mainly on the achievement rate of planned activities. The reports of both

¹⁰ Government of Montenegro, *Public Administration Reform Strategy 2016–2020*, July 2016.

¹¹ Ministry of Information Society and Telecommunications, *Strategy for the Development of Information Society until 2020*, 2016.

¹² The 2018-2020 Action Plan for PAR Strategy, <http://www.gov.me/ResourceManager/FileDownload.aspx?rId=297832&rType=2> and the 2018 Action Plan for SDIS, <http://www.gov.me/ResourceManager/FileDownload.aspx?rId=308295&rType=2>.

¹³ One notable case of non-alignment is the list of registries to be covered by the interoperability framework in the first stage. According to the 2018 Action Plan for SDIS, public procurement should be one of the first services piloted in the interoperability framework by the 2nd quarter of 2018, while in the PAR Strategy the procurement registry is not even among the key registries to be covered in the interoperability framework at the first stage.

strategies contain very limited information on implementation challenges and mitigation measures for addressing these challenges.

The MPA is in charge of co-ordinating public service delivery. The Directorate for State Administration is responsible for the legal framework on administrative procedures, the Directorate for Electronic Governance and Information Society develops e-services and infrastructure (including interoperability) and the Directorate for Good Public Administration and Activities Related to non-governmental organisations (NGOs) is in charge of improving the administration's work quality. Still, no directorate is specifically responsible for improving the quality of public services. The Directorate for Financial System and Improvement of the Business Environment of the MoF is responsible for overall regulatory reform, including administrative simplification. The MoF also checks the quality of the Regulatory Impact Assessment (RIA) reports that must accompany all draft laws and bylaws – reports that should contain an assessment of administrative burden for all alternative options analysed. While the RIA reports are prepared consistently, they do not as a rule contain the requisite assessment of administrative burden associated with procedures.

The PAR Council and the Council for Competitiveness were established as political-level co-ordination forums that consider initiatives related to service delivery and administrative simplification. Ministers of finance and public administration are members of both forums and the ministries co-operate on initiatives related to simplification and digitalisation of procedures¹⁴.

Nevertheless, still 55% of businesses claim that licence and permit requirements create major or at least moderate obstacle to business growth. 51% of businesses consider regulations to be clear, not contradictory and not frequently changing. At the same time, 54% of citizens are satisfied with central government administrative services (up from 42% in 2017)¹⁵.

There are still multiple examples of excessive bureaucracy in administrative service delivery. In the case of vehicle registration, the burdensome procedure, which requires multiple contacts with administrative bodies, has given the private sector (technical inspection stations) incentive to offer the service of handling vehicle registrations on behalf of applicants for a fee. While for applicants this works as a one-stop-shop, the extra cost of this service could be eliminated if the procedure were simplified. Meanwhile, the user-friendliness of the more straightforward services such as the renewal of the personal ID is hampered by a bureaucratic payment scheme: payments cannot be made at the counter receiving the application, but must instead be completed at Post of Montenegro counters that are often in the same building, but separate from the actual service provider. The ease of starting a new business has also decreased, according to the World Bank's *Doing Business 2019* report¹⁶.

Concerning construction permits, the 2017 Law on Spatial Planning and Construction¹⁷ abolished the requirement to obtain one, but replaced it with a mandatory approval of the design. The complete construction process now consists of at least nine steps and multiple contacts with state administration bodies or service providers licensed by the state (Figure 1). While effective state supervision of construction work is necessary, the procedure appears to be overly complex. For example, the building design must be approved twice: first the conceptual design by the state/municipal architect, and later the final design by the licensed reviewer. In addition, when notifying about the start of construction work,

¹⁴ Examples of recent initiatives include: 1) co-operation on the drafting of the Law on Administrative Fees to introduce a system for electronic payment of administrative fees; 2) work on the e-licencing register for introducing online procedures for some licences (both ministries are part of the working group); 3) improving procedures for starting business (the working group involving both ministries has been recently re-established).

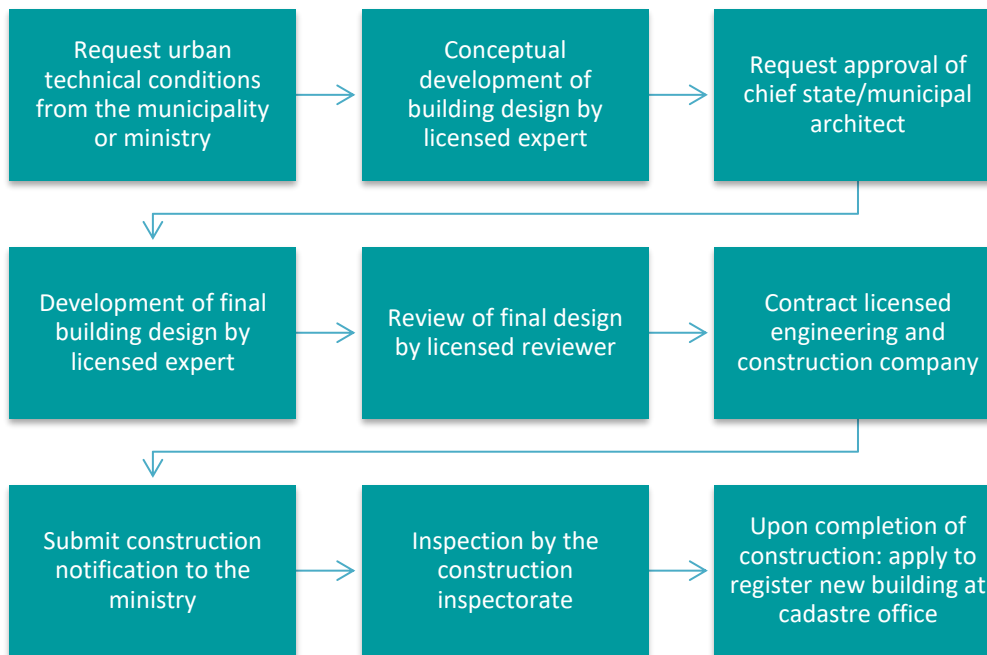
¹⁵ *Balkan Barometer 2019*.

¹⁶ World Bank Group (2019), *Doing Business 2019*, http://www.worldbank.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf.

¹⁷ Law on Spatial Planning and Construction, Official Gazette No. 064/17.

it is necessary to provide a certificate of land ownership even though this information is available online free of charge from the Real Estate Cadastre¹⁸.

Figure 1. Step-by-step requirements of the construction process



Source: Ministry of Sustainable Development and Tourism.

According to the *Balkan Barometer* survey, the satisfaction of businesses with digital services is slightly higher (66%) than with public services for businesses in general (50%)¹⁹. Digital transformation of public services is most advanced in the area of tax-related services for businesses. Online submission of annual corporate income tax (CIT) declarations is mandatory for the vast majority of taxpayers, and digital uptake has reached 98% (from 23% in 2017). The same applies for value-added tax (VAT) declarations²⁰, and employers are also required to submit monthly electronic personal income tax (PIT) declarations online on behalf of their employees. Employees who do not have other sources of income (e.g. from renting property) are not required to submit annual PIT declarations, but those with multiple sources of income (around 5% of PIT taxpayers) cannot use digital channels and their tax declarations are not pre-filled by the administration. In addition to tax-related services, it is possible to apply for some licences and certificates online through the eUprava.me portal, and the licence or certificate can usually be delivered by post²¹. Most other administrative services are not available online (Table 1), but the e-Government portal (eUprava.me) provides some instructions on how to access services.

¹⁸ http://www.nekretnine.co.me/me/Katastarski_podaci.asp.

¹⁹ *Balkan Barometer 2019*.

²⁰ According to the Tax Administration, 72% of VAT declarations were submitted via digital channels in December 2018 (up from 23% in 2017).

²¹ According to the 2017 report on the implementation of the PAR Strategy, ten such one-stop shop services are available.

Montenegro
Service Delivery

Table 1. Availability of selected services via digital channels

	Application can be submitted online	In-person presence of the applicant is not required	Fee (if required) can be paid online	Method of authentication	Digital uptake
Obtaining excerpt from land registry	NOT AVAILABLE (service available at the premises of the Real Estate Administration) ²²				
Obtaining certificate of marital status	NOT AVAILABLE (service available through the local self-governments)				
Obtaining certificate from company registry	NOT AVAILABLE (service available at the territorial offices of the Tax Administration)				
Setting up limited liability company	NOT AVAILABLE (application, can be submitted online, but certification of company's founding documents at the public notary office required)				
Requesting public information from a ministry	YES (through e-Government portal eUprava.me)	YES	In standard case, fee is not required	Login created by the user of eUprava.me portal (free of charge)	No data
Declaring and paying VAT	YES	YES	PARTIALLY (tax can be paid via online bank transfer, but not through service provision interface)	Digital certificate	72% (December 2018) ²³
Declaring and paying CIT					98% (2017) ²⁴
Declaring and paying PIT	NOT AVAILABLE (taxpayers are required to deliver declarations to relevant territorial branch of the Tax Administration, but for most taxpayers (that do not have any additional income) the declaration is submitted electronically by employers as part of monthly tax declarations) ²⁵				

Source: Analysis of legislation and information provided by respective institutions.

Another source of administrative burden for businesses is the area of inspections. Montenegro is one of the few countries in Europe to have a combined inspection authority – the Administration of Inspection Affairs (AIA) – supervising 20 areas of business activity. However, the idea of integrating sectoral inspections under one single institutional umbrella to improve co-ordination and reduce the burden on businesses has not fully materialised. The AIA does not have an integrated information system that would prevent simultaneous, multiple inspections of a business entity. Although the PAR Strategy Action Plan for 2018-2020 envisages steps to develop a single information system for the whole institution, this project remains at the preparatory stage.

²² Citizens can access the real estate registry online at http://www.nekretnine.co.me/me/Katastarski_podaci.asp. However, official registry excerpts (not available online) are still required when completing construction documentation, for example.

²³ Of 20 524 total VAT declarations, 14 701 were submitted digitally in December 2018 (data provided by the Tax Administration).

²⁴ Of 22 856 total CIT declarations, 22 509 were submitted digitally in 2017 (data provided by the Tax Administration).

²⁵ After logging in with a digital certificate, the taxpayers can review data about their income payments and debts from the online application of the Central Registry of Taxpayers and Insurers, as well as from the Analytic Card reports (information provided by the Tax Administration).

Montenegro Service Delivery

While the number of inspections conducted by the AIA is very high (two to three inspections per inspector per day), only 23% of inspections completed in 2018 resulted in sanctions for irregularities²⁶. This is an indication of poor risk assessment capacities, one of the results of inspectors having only limited access to information (they do not have direct access to the Tax Administration or to the Health Insurance Fund databases). There are no statutory limits to the number of inspections (or inspection days) per year that a business can be subject to. Businesses under inspection may contact the AIA for information, but the inspection checklists used by inspectors are not made public. The entities being inspected therefore do not have quick and easy access to complete information about regulatory requirements.

The policy framework for service delivery is in place, but bureaucratic, time-consuming and costly services, as well as the perception by businesses that the quality of public services is low, result in a value of 3 being assigned for the indicator on citizen-oriented service delivery.

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 on service delivery	8/8
2. Existence and extent of application of policy on digital service delivery	8/8
3. Central co-ordination for digital government projects	4/4
4. Established policy on administrative simplification	10/12
Performance of citizen-oriented service delivery	
5. Perceived quality of public service delivery by citizens (%)	4/6
6. Renewing a personal identification document	1.5/6
7. Registering a personal vehicle	0/6
8. Declaring and paying personal income taxes	0/6
9. Perceived quality of public service delivery and administrative burdens by businesses (%)	3.5/6
10. Starting a business	2.5/6
11. Obtaining a commercial construction permit	3/6
12. Declaring and paying corporate income taxes	6/6
13. Declaring and paying value-added taxes	3.5/6
Total²⁷	54/86

²⁶ Data provided by the AIA. The AIA conducted 63 433 inspections in 2018, and issued 14 663 misdemeanour orders imposing sanctions for violation of regulations and 518 requests to initiate misdemeanour procedures in court. The latter procedure applies when the inspected party does not accept the misdemeanour order.

²⁷ Point conversion ranges: 0-14=0, 15-28=1, 29-42=2, 43-56=3, 57-70=4, 71-86=5.

The policy framework for service delivery as well as administrative simplification is in place, but its implementation progress has been modest. Even the most basic services require several institutional contacts and are time-consuming. Digital transformation of services is most advanced in tax-related services for businesses. Other administrative services are still mainly available through traditional channels.

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

The 2014 LAP eventually entered into force on 1 July 2017. It safeguards the key principles of good administrative behaviour and promotes some innovations in administrative decision-making, e.g. electronic submission of applications and electronic issuing of administrative acts, as well as the once-only principle requiring that state administration bodies exchange information among themselves rather than asking applicants to deliver certificates or excerpts from public registries. The LAP also envisages implementation of the one-stop-shop principle limiting the number of institutional contacts necessary to resolve matters.

The LAP's scope of application is extensive, as the foundational definition of administrative matters is broad enough to embrace all forms of administrative activity influencing the rights and obligations of citizens and other entities. The LAP explicitly specifies that it applies to all administrative matters, and that no *lex specialis* regulations may undermine the fundamental principles enshrined in the LAP or diminish protection of the parties' rights²⁸.

Ensuring full implementation of the new LAP has been recognised as one of the PAR Strategy's primary objectives. The main focus is on providing training for civil servants on applying the new law, and in the first half of 2018, around 20 training sessions were conducted for employees of various state administration bodies²⁹. The relevant ministries were also tasked with identifying any laws from their domains that would require adjustment to the new procedural framework, and the MPA co-ordinated this process. According to data provided by the MPA, as of March 2019, 85 of the 90 laws requiring harmonisation have been amended, while five were still going through the harmonisation process. The harmonisation of secondary legislation was not centrally co-ordinated and there is no single inventory of all legislative acts (primary and secondary legislation as well as internal procedures of public bodies) that remain incompatible with the LAP and require revision.

Implementation of the basic standards for good administration under the new LAP is progressing well. SIGMA's review of a sample of administrative acts demonstrates that the new LAP forms a procedural basis for decisions, and that decisions contain the elements required by the LAP (Table 2).

²⁸ LAP, Article 4.

²⁹ Ministry of Public Administration (2018), *Report on the Implementation of the Action Plan for the Implementation of the Public Administration Reform Strategy 2016-2020 for the Period January - July 2018*.

Table 2. Review of sample administrative acts

	Legal basis of the act is provided	Statement of reasons is provided	Information about the right to appeal is provided
Tax act on the need to pay additional VAT	+	+	+
Decision ordering the removal of irregularities regarding the application of food safety legislation	+	+	+
Decision ordering the removal of irregularities regarding application of the Law on Safety and Health at Work	+	+	+
Decision ordering the removal of irregularities regarding application of the Law on Consumer Protection	+	+	+
Refusing merger approval/approving merger	+	+	+
Decision on the right to pension/setting the amount of pension	+	+	+

Source: Analysis of documents provided by relevant institutions.

Citizens are generally satisfied with the performance of state administration bodies handling administrative cases. According to the *Balkan Barometer 2019* survey, 73% of the population perceives administrative proceedings as efficient. This result is considerably higher than the regional average³⁰. Furthermore, the share of administrative acts repealed or changed by the administrative court has also decreased³¹. The MPA is required to prepare annual reports on the implementation of administrative procedures by public bodies, but its first report on LAP implementation was not ready in time for this assessment³².

However, it is clear that full application of the once-only and one-stop-shop principles in administrative practice remains a major challenge. Achieving this objective will require both adjustments to legislation and the creation of technical preconditions, particularly the interoperability of public registers. While it is now possible to exchange data among selected key registers through the GSB, there are no plans for a co-ordinated approach to amend regulations that require applicants to provide data. There are currently numerous examples demonstrating that both principles are not fully in place:

- Payment of administrative taxes and any additional fees for access to public services cannot be made at the service desk, and applicants are always required to submit proof of payment to the body handling the case.
- For vehicle registrations, applicants are required to provide proof of payment of required taxes, certified by the Tax Administration, and a certificate confirming that they are not listed in the Register of Fines³³.

³⁰ *Balkan Barometer 2019*.

³¹ The Administrative Court decided on 8 703 administrative matters in 2018 (excluding suspensions and transferrals), and in 1 714 cases (19.7%) the complaint was successful (data from the Report on the Administrative Court on 2018).

³² According to the Government Annual Work Plan, the deadline for finalising the report is the end of 2nd quarter of 2019.

³³ https://www.euprava.me/usluge/detalji_usluge?generatedServiceId=349.

Montenegro Service Delivery

- For numerous licences and permits (e.g. to run a tourist agency³⁴, to provide catering services³⁵, or for commercial fishing³⁶), an excerpt from the registry of business entities must be presented, even though this information should be acquired directly from the registry by the licensing authority.
- Before initiating construction works it is necessary to provide a land ownership certificate³⁷ even though this information is actually available online free of charge from the Real Estate Cadastre's electronic registry.
- Requests for company concentration (merger) approvals submitted to the Agency for Protection of Competition are also supposed to contain excerpts from the registry of business entities for all companies involved³⁸.

Even for procedures that only partially use the one-stop-shop principle, parties are required to pay an additional fee for using the benefits. For instance, transactions concerning property ownership require a notarial act, and notaries can request an additional fee for updating the Real Estate Cadastre upon completion of the transaction. Notaries are not obligated to submit the request directly, so parties must submit the application independently if they do not pay the fee. As a result, in many cases the once-only and one-stop-shop principles exist only on paper, and multiple institutional contacts, accompanied by additional costs, are required to obtain relevant public services. The PAR Strategy Action Plan does not detail any specific actions targeting this problem directly.

An additional layer of bureaucracy has been created by the legal framework that establishes the costs of administrative services. While the Law on Administrative Fees³⁹ stipulates the amounts to be paid for administrative services, the Government has adopted a separate regulation designating additional service fees to be paid for the same service. For example, in the case of personal identification renewals, a citizen applying for a new passport is required to pay an administrative fee of EUR 25 as well as a separate service fee of EUR 15⁴⁰.

As the primary legislation for ensuring good administration is in place, the efficiency of administrative procedures is perceived as high and the administrative acts are usually upheld by the Administrative Court, the value for the indicator on fairness and efficiency of administrative procedures is 5.

³⁴ https://www.euprava.me/usluge/detalji_usluge?generatedServiceId=457.

³⁵ https://www.euprava.me/usluge/detalji_usluge?generatedServiceId=451.

³⁶ https://www.euprava.me/usluge/detalji_usluge?generatedServiceId=776.

³⁷ Article 91 of the Law on Spatial Planning and Construction.

³⁸ Information provided by the Agency for Protection of Competition.

³⁹ Law on Administrative Fees, Official Gazette No. 055/03 and No. 037/17.

⁴⁰ According to the Decision on the Form of Passport and Travel Document, Official Gazette No. 035/08.

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 (%)	4/4
4. Repeals of, or changes to, decisions of administrative bodies made by the administrative courts (%)	3/4
Total⁴¹	17/18

Although the LAP promotes high standards in administrative behaviour, the once-only and one-stop-shop principles are not implemented in practice. Still, citizens are generally satisfied with the efficiency of administrative proceedings and the share of administrative acts repealed or changed by the Administrative Court is low.

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

User satisfaction with public services is monitored by state administration bodies through the traditional bureaucratic channels, e.g. complaint books and comment boxes available at the premises of public bodies. However, the LAP also enables citizens to submit complaints to the head of a relevant body if the institution violated their rights or interests while undertaking administrative activities⁴². The e-Government portal eUprava.me also contains a basic questionnaire with seven general questions about the technical aspects of using its website, but only 136 people completed the survey in 2017⁴³. The LAP requires the MPA to prepare an annual report on the handling of administrative matters⁴⁴, but it focuses mainly on the legal aspects (number of administrative procedures, number of appeals, etc.) and does not contain information on service delivery performance. The first report is being prepared at the beginning of 2019 but was not ready in time for this assessment.

There is no consistent practice of collecting data on user satisfaction and using this information to improve service delivery. According to the *Balkan Barometer 2019* survey, 52% of citizens who had contact with government services are satisfied (Figure 2). This is a considerable improvement from previous years.

⁴¹ Point conversion ranges: 0-3=0, 4-6=1, 7-9=2, 10-12=3, 13-15=4, 16-18=5.

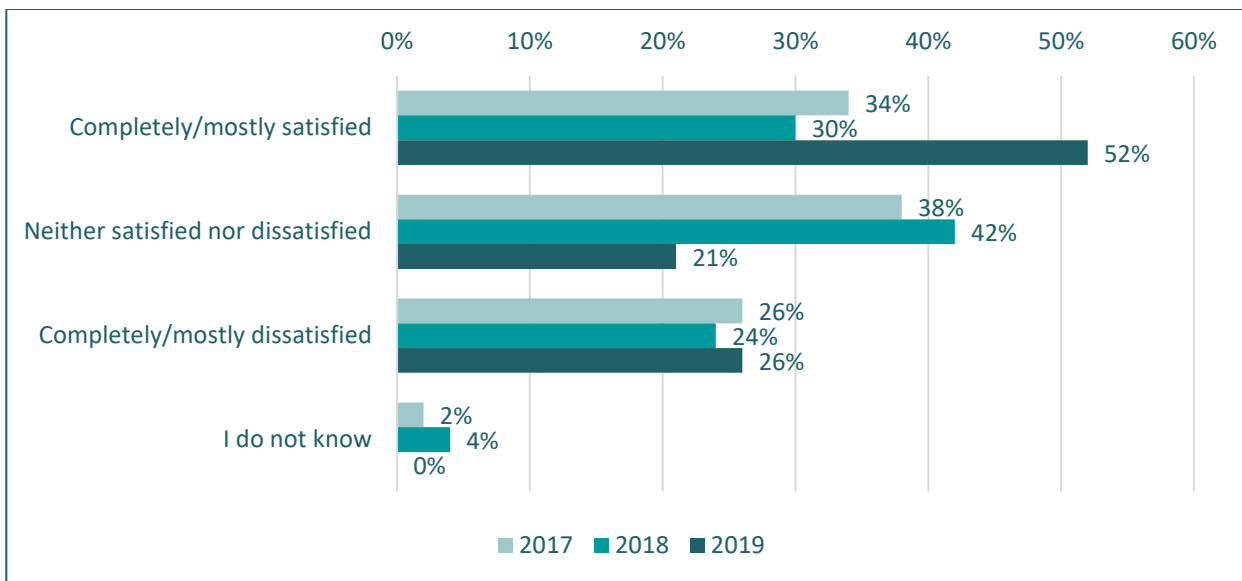
⁴² LAP, Article 35.

⁴³ MPA, Report on Implementation of the PAR Strategy in 2017, p. 30.

⁴⁴ LAP, Article 159, and the Decree on the Content of the Annual Report on the Handling of Administrative Matters and the More Detailed Content and Manner of Keeping Records on the Handling of Administrative Matters, Official Gazette No. 82/17.

Montenegro
Service Delivery

Figure 2. How satisfied are you with public services in general?



Source: *Balkan Barometer* (2017-2019).

Among the central government bodies reviewed by SIGMA⁴⁵, the most advanced scheme for measuring citizen satisfaction with services has been developed by the Statistical Office of Montenegro (MONSTAT). This system was implemented as part of the quality assurance model based on the total quality management (TQM) approach. MONSTAT circulated a web-based questionnaire among various categories of service users and produced a report proposing specific recommendations for organisational improvements⁴⁶. The Tax Administration has also been measuring user satisfaction through surveys and interviews – most recently in 2016, and it plans to repeat the exercise in 2019.

With publication of the register of licences and permits on the eUprava.me portal, information availability on standards of access to services has improved. This portal contains information about access procedures for more than 500 other services offered by 50 state administration bodies. Information is provided in the form of service charters that specify the documents required from the applicant, the deadline for processing the submission, the relevant public administration body and the service fee. Unfortunately, the eUprava.me portal lacks service charters for services provided by local governments. Furthermore, there are no official, binding standards regarding the quality and accessibility of services provided by public institutions.

Citizen awareness of services offered by the single e-Government portal for state administration is rather low. According to a survey conducted by the Institut Alternativa, almost one-third of citizens know about the eUprava.me portal but only 7% have used it⁴⁷. The *Balkan Barometer 2019* indicates that people are less satisfied with public service accessibility via digital channels than they are with public services in general (Figure 3).

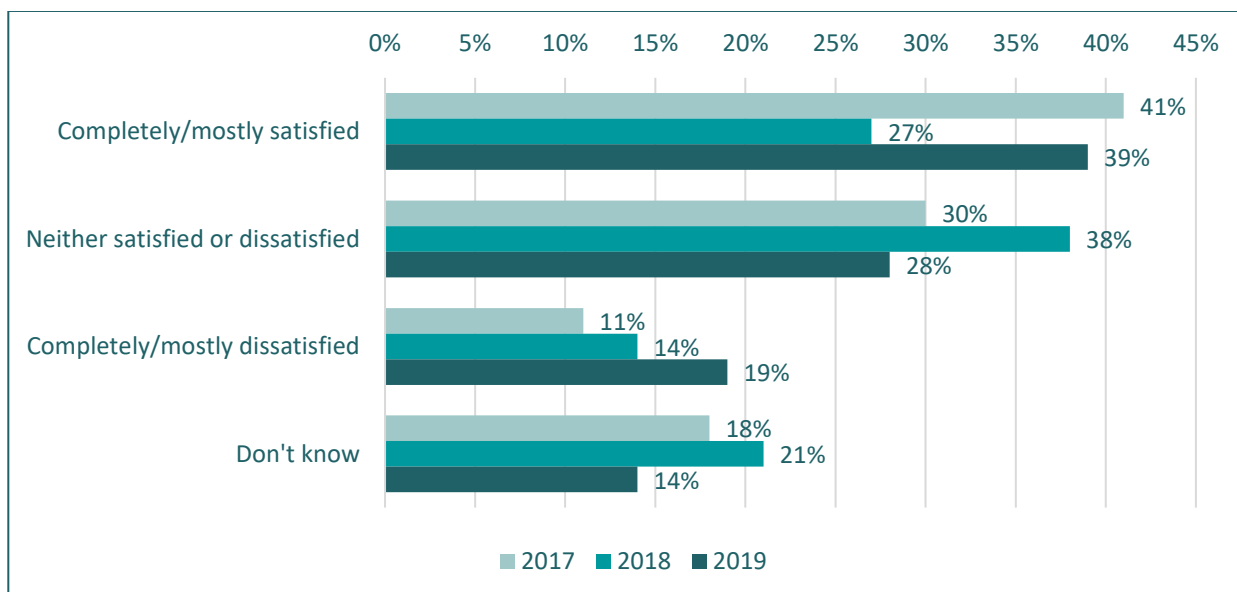
⁴⁵ Review carried out on five central government ministries (responsible for healthcare, education, justice, interior affairs and the economy) and three central government agencies (national tax administration, national statistical office and telecommunications regulator).

⁴⁶ MONSTAT, *User Satisfaction Survey*, September 2018.

⁴⁷ Institut Alternativa (2018), *Toward a Better Administration in Montenegro: Good Progress or Modest Preparation?*, Podgorica.

Montenegro
Service Delivery

Figure 3. How satisfied are you with accessibility to public services via a digital channel?



Source: *Balkan Barometer* (2017-2019).

Infrastructure for the interoperability of registers was put in place in 2018, and the GSB (developed with European Union (EU) and United Nations Development Programme [UNDP] support), is operational. Six key state-level registers⁴⁸, including the population register and the business register, are already connected to the GSB; the land register is to be connected next, making it the seventh. The meta-register of data kept in the registries of public administration authorities was also developed as part of the GSB project. The major challenge for the next phase of implementation is to revise procedures and regulations to no longer require citizens to supply information that service providers can obtain through the GSB. A good model is the Ministry of Labour and Social Welfare, which is already using data from the GSB to update its Register of Material Benefits. This ministry has pioneered the use of registry interoperability to simplify the administration of social benefits through implementing the Social Card project⁴⁹. Eventually, data exchanged through the GSB should be available to all state institutions that currently require applicants to submit data.

Article 14 of the Law on Electronic Identification and Electronic Signature⁵⁰ stipulates that an electronic signature is equivalent to a handwritten one. The Revised National Interoperability Framework adopted in 2013⁵¹ required the Government to consider developing electronic ID cards that would provide citizens with digital certificates at the cost of obtaining ID card. However, this concept has not been implemented and user authentication for electronic services is based on the digital certificates issued for electronic signatures. The standard price of the digital certificate is EUR 110, or 15% of the average monthly salary. This is a considerable financial burden for users and makes e-services practically inaccessible for the population at large. Digital certificate uptake is therefore low, at fewer than 7 000 certificates issued in 2017⁵².

⁴⁸ The Central Population Register, the Central Register of Business Entities, the Central Registry of Tax Payers and Insured, Register of Children in Educational Education Institutions and Register of Criminal Records (information provided by the UNDP and the MPA).

⁴⁹ <http://www.me.undp.org/content/montenegro/en/home/operations/projects/socialinclusion/SWIS.html>.

⁵⁰ Official Gazette No. 30/2017.

⁵¹ Ministry of Information Society and Telecommunications, *Revised Interoperability Framework*, December 2013.

⁵² Based on data from the Post of Montenegro, 6 883 certificates were issued in 2017: 4 997 new certificates and 1 886 renewals.

Montenegro
Service Delivery

As there are no common standards for public service delivery, and as performance is not centrally monitored and quality management tools and techniques are not used, the value for the indicator on the existence of enablers for public service delivery is 2.

Existence of enablers for public service delivery						
This indicator measures the extent to which citizen-oriented service delivery is facilitated by 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 these 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 are in place	
1. Central monitoring of service delivery performance	0/3
2. Adequacy of interoperability infrastructure	2/3
3. Existence of common standards for public service delivery	0/3
4. Legal recognition and affordability of electronic signatures	2/3
Performance of central and shared mechanisms for public service delivery	
5. Use of quality-management tools and techniques	0/4
6. Adoption of user engagement tools and techniques	2/4
7. Interoperability of basic registers	3/4
Total⁵³	9/24

Public service quality improvements are hampered by the lack of standards for public service delivery and the absence of a central system monitoring the performance of state administration bodies. Nevertheless, the interoperability framework is being implemented and the first state-level registers can exchange data. Access to e-services is limited, however, by the high cost of obtaining an electronic signature.

⁵³ Point conversion ranges: 0-4=0, 5-8=1, 9-12=2, 13-16=3, 17-20=4, 21-24=5.

Key recommendations

Short-term (1-2 years)

- 1) Under co-ordination of the MPA, the Government should establish a catalogue of all public services, containing key information about the delivery process for each service: cost to the citizen, actions/documents required from the service user and form of delivery (in-person or digital).
- 2) In addition to increasing the number of registers connected to the GSB, the Government should ensure effective implementation of the GSB so that all institutions involved develop the web services necessary for data exchange and adjust their procedures to reduce the volume of data currently required from applicants.
- 3) The MPA, in co-operation with the MoF, should assess the most frequently used administrative services for compliance with the once-only principle to ensure its implementation and to identify options to simplify procedures through revised regulations, if necessary.
- 4) The Government should ensure that all payments for services may be made directly at service points in the form of a single payment (i.e. not split into an administrative fee and a separate fee for the service).
- 5) The Government should reduce the cost of obtaining a digital signature for individuals, and should develop relevant and well-designed electronic services as well as co-operate with large private sector service providers to increase the use of digital authentication tools by the general population.

Medium-term (3-5 years)

- 6) The MPA should gradually begin monitoring user satisfaction with public service delivery by initially collecting basic data for each service, such as number of transactions, volume of complaints and number of users. User satisfaction data at the level of individual services, rather than at the administration or institution level, should be added later.



PUBLIC FINANCIAL MANAGEMENT – PUBLIC PROCUREMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: JULY 2017 – MARCH 2019

1.1. State of play

The Public Procurement Law (PPL)⁵⁴ is only partially aligned with the EU *acquis* on public procurement. The 2014 Directives have not yet been transposed, nor has the legislative framework for public private partnerships (PPPs) and concessions been harmonised with the 2014 Directives. Furthermore, defence and security procurement are not regulated in line with the Defence and Security Directive.

The institutional set-up for public procurement is comprehensive, except for PPPs and concessions. The competences and staff of the Public Procurement Agency (PPA) were transferred to the Ministry of Finance (MoF) on 31 December 2018, as the MoF is now the policy-making body for both public procurement and PPPs/concessions as well as the body responsible for drafting legislation and monitoring the public procurement system. The State Commission for the Review of Public Procurement Procedures (SC) reviews complaints concerning public procurement procedures, and the Property Administration (PA) undertakes centralised purchasing in ten categories of supplies and services for central government bodies and state funds. The public procurement section of the Administration for Inspection Affairs (AIA) carries out inspection controls, verifying the legal compliance of public procurement procedures.

The obligation to publish contract notices and tendering documents on the Public Procurement Portal (PP Portal) ensures transparency of the public procurement system for contracts exceeding national thresholds. E-procurement is in an early stage of implementation.

The approach of many stakeholders to public procurement is generally very formalistic, and there is a strong emphasis on procedural controls in the procurement system as whole.

1.2. Main developments

The institutional set-up for public procurement changed during the 2017-2019 period, with the competences and staff of the PPA transferred to the MoF on 31 December 2018⁵⁵.

SC resources for procurement review have improved, with a greater number of members, additional staff and new offices. Processing times for reaching decisions on complaints fell considerably in 2018 as a result of better resources and a significant drop in the number of complaints filed, mainly owing to legislative changes. The SC has also taken a far more proactive approach in exercising its ex-officio powers.

Since the last assessment report, the resources and activities of the AIA have increased significantly. The number of AIA inspectors has increased to eight. The AIA inspected 351 contracting authorities/entities in 2018 to verify legal compliance and identified 309 irregularities, imposing fines in 42 cases.

On 1 January 2018, the role of the PA was expanded to cover mandatory centralised procurement for central government bodies and state funds in ten purchasing categories for supplies and services⁵⁶.

⁵⁴ Law No. 42/11 on Public Procurement as amended by Law Nos. 57/14, 28/15 and 42/17, together referred to in this report as the PPL.

⁵⁵ Decree No. 08/18 on the Organisation and Method of Work of the State Administration, Official Gazette of 31 December 2018.

⁵⁶ PPL, Article 3, provides for the possibility of centralised procurement. Regulation No. 074/17 on the Facilitation of Public Procurement of Goods and Services, Official Gazette of 8 November 2017, amended 25 October 2018, expanded the role of the PA to cover mandated central purchasing.

Two technical assistance projects funded by the EU were launched at the end of 2018. Their main objectives are to implement the e-procurement system and develop procurement legislation.

2. ANALYSIS

Public procurement

This analysis covers Principles 10, 11, 12 and 13 on public procurement in the public financial management area. It includes an analysis of the indicator(s) and sub-indicators used to assess the Principles, and an overall summary of the state of play. Short- and medium-term recommendations are presented at the end of the section.

Most of the indicator values have not changed since the 2017 assessment. Developments in the legislative framework for public procurement and PPPs/concessions have been limited by delays in adopting the new PPL and the PPP/Concessions Law. Central institutional and administrative capacity improved in 2018 and the time taken to reach decisions on complaints decreased, but not to the extent necessary to impact overall scores. The speed of decision making in the remedies system is improving gradually, but e-procurement has not yet been implemented. The improvements in the efficiency, non-discrimination, transparency and equal treatment in public procurement operations are mostly due to better availability of data.

Indicators	0	1	2	3	4	5
Quality of legislative framework for public procurement and PPPs/concessions				◆		
Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently				◆		
Independence, timeliness and competence of the complaints handling system			◆			
Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations		□	◆			

Legend: □ 2017 indicator value ◆ 2019 indicator value

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 legislative framework for public procurement consists of the PPL, which covers procurement in the public and utilities sectors above the national thresholds of EUR 15 000 for supply and service contracts and EUR 30 000 for work contracts, and a set of implementing regulations adopted by the MoF or the PPA⁵⁷.

The current PPL was adopted in 2011 and became applicable in 2012. Several amendments have been made to it, most recently in May 2017 ('the 2017 PPL amendments')⁵⁸. The 2017 PPL amendments, which were adopted without prior public consultation, reduced harmonisation with the 2014 Directives and the Treaty on the Functioning of the EU. In particular, the 2017 amendments excluded defence- and security-related procurement from PPL regulation⁵⁹, requiring instead that the Government adopt special procedures for these procurements before the end of 2017. The Ministry of Defence has adopted two internal rulebooks regulating low-value and emergency procurement⁶⁰, but the comprehensive regulation on defence- and security-related procurement has not been adopted yet by the Government.

Some exceptions in applying the PPL exceed what is permitted under the 2014 Directives⁶¹. The PPL includes provisions on using, conducting and awarding contracts through competitive procedures, but the competitive dialogue procedure, the competitive procedure with negotiation, and the innovation partnership procedure detailed in the 2014 Directives have not been implemented. Grounds for exclusion are not aligned with the 2014 Directives, and although the PPL provides for framework agreements and permits central purchasing, tools such as dynamic purchasing systems, e-catalogues and e-auctions are not mentioned. However, the PPL covers some areas that are not part of the *acquis*, such as the adoption and publication of annual procurement plans, the roles and tasks of evaluation committees, tendering security and performance guarantees.

⁵⁷ Rulebook on More Detailed Contents and Methodology of Electronic Procurement Procedures, Official Gazette No. 61/11; Rulebook on Methodology and Contents of Records on Violations of Anti-corruption Rules, Official Gazette Nos. 63/11 and 56/15; Rulebook on Contents and Methods of Taking the Professional Examination for Procurement Officers, Official Gazette No. 28/12; Rulebook on More Detailed Criteria for Setting up Tender Opening and Evaluation Commissions, Official Gazette No. 24/15; Rulebook on Methodology of Determining Calculation Errors in Tenders in Procurement Procedures, Official Gazette No. 24/15; Rulebook on the Methodology of Expressing Sub-criteria for Selection of the Most Advantageous Tender in Procurement Procedures, Official Gazette No. 24/15; Rulebook on Methodology of Risk Analysis in Performing Control Over Public Procurement Procedures, Official Gazette No. 80/15; Rulebook on Methodology for Determining Energy Efficiency in Public Procurement, Official Gazette No. 09/16; Rulebook on Forms in Public Procurement Procedures, Official Gazette No. 48/17; Rulebook on Content of the Act and Forms for the Implementation of Low-Value Procurement, Official Gazette Nos. 48/17 and 54/17; Rulebook on Content of the Act and Forms for the Implementation of Urgent Procurement, Official Gazette Nos. 48/17 and 54/17; Rulebook on Report of Implemented Procedures and Concluded Public Procurement Contracts, Procurement of Small Value and Urgent Procurement, Official Gazette No. 52/17; Decree on the Consolidation of Public Procurement of Goods and Services, Official Gazette No. 74/17; Regulation on the Types of Public Procurement Procedures and the Manner of their Implementation for the Diplomatic and Consular Missions of Montenegro, Official Gazette No. 74/17; Regulation on the Implementation of Public Procurement for the Diplomatic and Consular Missions, Military-Diplomatic Representatives and Units of the Army in International Forces and Peacekeeping Missions, not published in the Official Gazette.

⁵⁸ Adopted in Government session of 18 May 2017 (Official Gazette No. 042/17) and came into force 29 June 2018.

⁵⁹ PPL, Article 116a, excludes defence- and security-related procurement, defined as (in summary): military equipment, security-sensitive equipment, supplies, services and work directly related to that equipment, services and works exclusively for military purposes, and security-sensitive services and works.

⁶⁰ Rulebook on the Procedure of Emergency Procurement and Rulebook on Low Value Procurement Procedure, both adopted on 8 August 2017 and available on the website of the Ministry of Defence: <http://www.mod.gov.me/biblioteka/pravilnici>.

⁶¹ For example, "procurement aimed at protection and recovery from catastrophes and major disasters – state of emergency" (PPL, Article 3[3]) and "services of hiring experts... in the process of privatisation of the economy" (PPL, Article 3, final paragraph).

Montenegro
Public Financial Management – Public Procurement

The 2017 PPL amendments increased the financial thresholds of contracts that fall under the jurisdiction of the PPL, raising them the low amount of EUR 5 000 to EUR 15 000 for supply and service contracts, and EUR 30 000 for work contracts. Contracting authorities are free to regulate the awarding of contracts below these thresholds (i.e. low-value contracts) using internal rulebooks published on the contracting authorities' websites, subject to only a small number of requirements set out in Article 30 of the PPL and to secondary legislation prepared by the MoF on rulebook formulation and annual reporting of awarded contracts⁶². The MoF rulebooks contain only minimal guidance for contracting authorities on how to prepare internal rulebooks, and very limited specific training or awareness-raising events were held for contracting authorities or economic operators to support them^{63,64}. As a result, publication of contracting authorities' internal rulebooks was delayed⁶⁵. Because contracting authorities are not obligated to advertise low-value contracts, there is no right to file complaints with the SC. In the second half of 2017, 39 142 low-value contracts were awarded, their total value of EUR 28 222 374 constituting 5.41% of total public procurement spending in that period⁶⁶.

The 2017 PPL amendments also included a new provision allowing contracts to be awarded without a formal competition in the case of urgent procurements related to unforeseen events, wherein it would not be possible to comply with the time frame prescribed by the PPL⁶⁷ – a provision not harmonised with the EU Directives. At the same time, PPL provisions for direct agreements were removed, together with the financial cap on this type of agreement. As with the procurement of low-value contracts, contracting authorities are free to regulate urgent procedures for awarding contracts, subject to only minimal requirements⁶⁸, using the internal rulebook published on the contracting authority's website. In the second half of 2017, 1 143 contracts were awarded through the urgent procurement method, their total value of EUR 3 087 175 constituting 19.15% of all contracts awarded and 0.59% of total public procurement spending in that period⁶⁹.

Part of the rationale for changing the low-value contract threshold was the need to reduce the administrative burden on the large number of small contracting authorities that procure low-value contracts and lack dedicated internal resources to conduct procurement processes. The changes have,

⁶² Rulebook on Content of the Act and Forms for the Implementation of Low-Value Procurement, Official Gazette No. 49/17, 27 July 2017, and No. 54/17, 24 August 2017; Rulebook on Report of Implemented Procedures and Concluded Public Procurement Contracts, Procurement of Small Value and Urgent Procurement, Official Gazette No. 52/17.

⁶³ The PPA confirmed that capacity-building was provided as part of regular training delivered by the PPA for contracting authorities and economic operators (information provided 28 February 2019, in response to written request).

⁶⁴ Interviews with the PPA and contracting authorities, 28-31 January 2019.

⁶⁵ According to Institut Alternativa (May 2018), none of the 23 municipalities and 19 ministries researched, including the MoF, had published an internal rulebook on low-value procurement by the statutory deadline of 30 July 2017. In the rulebooks analysed, all municipalities and ministries retain the direct-agreement arrangement for very low-value contracts, and most provide for a process of sending requests directly to bidders. Only four ministries envisaged publishing calls for bids on their websites. Institut Alternativa (2018), "Low value procurement in Montenegro: Without transparency or competition", <https://institut-alternativa.org/en/low-value-procurement-in-montenegro-without-transparency-or-competition/>.

⁶⁶ PPA (2018), *Public Procurement Report for 2017*, Table 38, <http://www.ujn.gov.me/category/izvjestaji/>; Institut Alternativa (2018), "Low value procurement in Montenegro: Without transparency or competition", <https://institut-alternativa.org/en/low-value-procurement-in-montenegro-without-transparency-or-competition/>.

⁶⁷ PPL, Article 29.

⁶⁸ Set out in the PPL, Article 29, including respect for general public procurement principles, and in secondary legislation prepared by the MoF on rulebook formulation and reporting of awarded contracts: Rulebook on Content of the Act and Forms for the Implementation of Urgent Procurement, Official Gazette Nos. 48/17 and 54/17, and Rulebook on Report of Implemented Procedures and Concluded Public Procurement Contracts, Procurement of Small Value and Urgent Procurement, Official Gazette No. 52/17.

⁶⁹ PPA (2018), *Public Procurement Report for 2017*, Table 39. The PPA informed us that reliability of this data cannot be guaranteed due to uncertainty on whether contracting authorities are correctly reporting urgent procurements. <http://www.ujn.gov.me/category/izvjestaji/> and Institut Alternativa (2018), "Low value procurement in Montenegro: Without transparency or competition", <https://institut-alternativa.org/en/low-value-procurement-in-montenegro-without-transparency-or-competition/>.

Montenegro
Public Financial Management – Public Procurement

however, created some confusion as well as a lack of consistency and transparency, which is unlikely to facilitate healthy competition. Interviews conducted by SIGMA with stakeholders from institutions, contracting authorities, non-governmental organisations and economic operators consistently raised concerns about the impact of the changes. Issues include: contract-splitting by contracting authorities to bring contracts below the threshold for low-value procurement⁷⁰; inconsistent advertising and procedural conduct practices; increased use of directly awarded contracts; reduced transparency; and the impact the lack of advertising will have on healthy competition.

The Law on Concessions⁷¹ deals with the preconditions, methods and procedures for awarding concessions (i.e. licences for exploiting natural resources or sites). Legislation regulating the various forms of co-operation between the public and private sectors for public service provision is dispersed among numerous sectoral laws. Although a draft PPP/Concessions Law covering PPPs and concessions in the sense understood in the 2014 Directives has been in development for some years, it has not yet been adopted⁷².

Mainly due to the scope of the PPL and its exclusions, the lack of defence and security legislation harmonised with the Defence and Security Directive, the lack of PPPs/concessions legislation harmonised with the 2014 Concessions Directive and the unavailability of some public procurement procedures and tools, the overall value for the indicator on the quality of legislative framework for public procurement and PPPs/concessions is 3.

⁷⁰ There are provisions aimed at preventing artificial splitting of contracts in the PPL and in the Rulebook on Low Value Procurement. However, concerns about artificially splitting contracts are referred to in PPA (2018), *Public Procurement Report for 2017*, p. 59, and in Institut Alternativa (2018), “Low value procurement in Montenegro: Without transparency or competition”, p. 5, which also notes reduced transparency and was mentioned by the State Audit Institution in interviews with SIGMA on 29 January 2019.

⁷¹ Official Gazette No. 08/09.

⁷² The MoF confirmed that the PPP/Concessions Law is in the final stage of drafting, with adoption set for 2019.

Quality of legislative framework for public procurement and PPPs/concessions

This indicator measures the quality of the legislative framework for public procurement and public-private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of small and medium-sized enterprises (SMEs) in public procurement are assessed, as well as whether practical measures are taken to allow for proper implementation of the legislation.

The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.

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

Sub-indicators	Points
Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds	
1. Level of alignment of public procurement legislation with the EU Directives	2/6
2. Scope of public procurement legislation	1/6
3. Public procurement procedures	2/4
4. Publication and transparency	5/5
5. Choice of participants and award of contracts	4/5
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	7/7
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 PPPs/concessions	
11. Coverage of legislation on PPPs/concessions	0/2
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions	0/8
Total⁷³	32/60

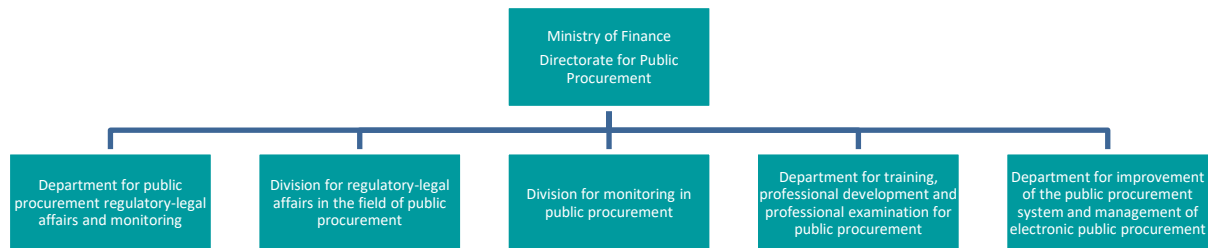
The PPL ensures transparency and equal treatment in procurements exceeding the national thresholds, but it is not aligned with the 2014 Directives in terms of scope or available procedures and tools. Defence and security procurement is excluded from the PPL and is not aligned with the 2009 Defence Directive. Furthermore, there is no PPPs/concessions legislation harmonised with the 2014 Concessions Directive.

⁷³ Point conversion ranges: 0-10=0, 11-20=1, 21-30=2, 31-40=3, 41-50=4, 51-60=5.

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

The institutional set-up changed on 31 December 2018 with the transfer of PPA competences and staff to a new Directorate for Public Procurement Policy, within the MoF⁷⁴. The rationale for this move was to ensure that policy making on public procurement rest within the jurisdiction of the ministry responsible for the area⁷⁵. The new Directorate for Public Procurement Policy comprises five departments/divisions⁷⁶.

Figure 1. Directorate for Public Procurement Policy



With this change in institutional set-up, the MoF is in charge of policy development for both public procurement and PPPs/concessions and is also the competent body for drafting legislation, co-ordinating implementation of the public procurement system and co-operating with international and other organisations^{77 78}.

The public procurement section of the AIA carries out inspection controls to verify the legal compliance of public procurement procedures⁷⁹, including inspection of low-value contract procurements. AIA inspection controls are additional to PPA/MoF monitoring and State Audit Institution (SAI) audits of procurement procedures and contracts. Since the last assessment report, the number of inspectors has increased from three to eight (including one chief inspector), and in 2018 the AIA inspected 351 contracting authorities/entities (compared with 220 in 2017)⁸⁰. AIA inspections follow a list of procedural requirements ('objects of control'), and the number of objects of control rose from 1 459 in 2017 (with 139 irregularities identified) to 3 518 in 2018 (with 309 irregularities identified). The AIA has the authority to impose fines, which it did in 42 cases in 2018, for a total of EUR 43 750⁸¹.

The SAI regularly audits procurement plans, procurement procedures and reports of awarded public procurements, publishing its results in annual reports⁸². In 2016-17, the SAI participated in a Parallel

⁷⁴ Decree No. 08/18 on the Organisation and Method of Work of the State Administration, Official Gazette of 31 December 2018. This decree also covers wider organisational issues: it transferred the competences and staff of the Tobacco Agency to the MoF, and it created 14 new administrative bodies and transferred the relevant competences and staff from ministries.

⁷⁵ SIGMA discussions with the Ministry of Public Administration, 29-30 January 2019.

⁷⁶ Article 13, Rulebook on Internal Organisation and Systematisation of the Ministry of Finance, 8 March 2019.

⁷⁷ The PPL, Article 19, lists the competences of the central procurement authority.

⁷⁸ Information on staff numbers, allocation of staff to departments/divisions and resourcing is not yet available.

⁷⁹ PPL Articles 147 and 148 establish and define the role of the public procurement inspector and the tasks to be carried out in inspection controls.

⁸⁰ At 1 January 2019 there were 656 contracting authorities and entities subject to the PPL. Source: list available from the PPA website: <http://www.ujn.gov.me/wp-content/uploads/2019/02/Lista-obveznika-2019-godina-nova.pdf>

⁸¹ Annual Report on the Implementation of the Public Procurement Strategy 2018, 19 December 2018, <http://www.ujn.gov.me/category/koordinaciono-tijelo/>.

⁸² Annual Audit Report of State Audit Institution for 2017, 15 October 2018, SAI No. 40111/18-011-112/166, Chapter 10.

Montenegro
Public Financial Management – Public Procurement

Performance Audit in the region, which required all SAIs to carry out public procurement performance audits. The project's synthesis report was published in January 2018⁸³.

The Strategy for Development of the Public Procurement System 2016-2020 was prepared by the PPA and published on a dedicated webpage of the PPA website. The Strategy is comprehensive, and although it does not include a chapter on PPPs/concessions, it identifies the main problems of the public procurement system and defines priorities for 2016-2020. The Action Plan for implementing the Strategy is only general and action points are set out in terms of activities, and the source of financing and costs of activities not yet implemented or ongoing were added as an annex just in 2018. Overall, 78% of activities planned for 2018⁸⁴ had been implemented or were ongoing, but numerous key activities were delayed because the new PPL and the PPP/Concessions Law were not adopted in 2017 as planned.

The PPA website provides instructions on how to post various documents on the PP Portal, and public procurement notices are published on the PP Portal as well as in at least one daily newspaper. Data can be searched on the PP Portal, but its reliability is uncertain mainly due to the search engine's lack of sophistication⁸⁵ and to the absence of a unified naming policy for documents.

Mainly due to the Strategy failing to cover PPPs/concessions, a lack of detail in the Action Plan and the absence of PPP/concessions legislation, the value for the indicator on the central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently is 3.

⁸³ Public Procurement in the Western Balkans, Synthesis Report on the Parallel Performance Audit Conducted by the Supreme Audit Institutions, January 2018, European Court of Auditors, Luxembourg/Stockholm, https://www.eca.europa.eu/Other%20publications/SYNTHESIS_W_BALKANS/SYNTHESIS_W_BALKANS_EN.pdf.

⁸⁴ Activities allocated to 2016-17 and fully implemented are not included in this calculation.

⁸⁵ PP Portal searches undertaken on 31 January 2019 demonstrated problems, for example in identifying procurement procedures by reference to contracting authorities (discussions with stakeholders, 28-31 January 2019).

Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently

This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies are open and transparent.

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

Sub-indicators	Points
Quality of the policy framework for public procurement	
1. Quality of the strategy for development of public procurement and PPPs/concessions	2/5
2. Quality of the operational action plan	4/5
3. Implementation of the strategy and the action plan	4/5
4. Monitoring of strategy implementation	3/5
Capability of central procurement institutions and their performance	
5. Adequacy of the legal framework to ensure capable institutions	8/10
6. Clarity in definition and distribution of central procurement functions in the legislation	8/10
7. Performance of the institutions involved, their capacity and resources	14/20
Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement	
8. Presence and quality of monitoring and data collection	4/10
9. Accessibility of public procurement data	6/10
Total⁸⁶	53/80

The current institutional set-up is comprehensive, except for concessions and PPPs. The MoF is responsible for policy, legislation and implementation of the public procurement system and PPPs/concessions. There is an independent review body (the SC) and a public procurement section of the AIA, which carries out inspection controls; both the SC and AIA are adequately staffed and resourced. A public procurement Strategy and an Action Plan are in place and monitored at least annually, and the legal compliance of public procurement is subjected to monitoring and reporting requirements. Data is publicly available on the PP Portal, but the search engine's lack of sophistication means that not all data is clear and concise, and data-mining is unreliable.

⁸⁶ Point conversion ranges: 0-12=0, 13-25=1, 26-39=2, 40-53=3, 54-67=4, 68-80=5.

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.

The institutional set-up and mechanisms are in place for handling public procurement complaints. The role of the review body is defined by the PPL, which regulates protection of economic operators' rights in public procurement procedures. The review and remedies system is not fully compliant with the EU Remedies Directive, however; for example, remedies for ineffectiveness or alternative penalties are not available. As a result of the 2017 amendments, the PPL offers no provisions for remedies in low-value⁸⁷ and urgent procurement cases.

The independent SC is the institution responsible for reviewing public procurement complaints. Although the SC had ongoing capacity issues during 2015-17 due to an absence or lack of members and staff and a significant increase in cases (Table 1), the 2017 PPL amendments raised SC membership. The SC is now composed of a president and six members appointed by the Government following a public selection process; their term of office is five years, with the possibility of reappointment. The SC legal department, which consists of 17 staff who provide professional and administrative (technical) support for the members of the SC, had one unfilled vacancy as of 31 December 2018⁸⁸. The new SC premises are adequate for the normal functioning of the institution. In accordance with the PPL, the SC submits timely and informative annual reports to the Parliament and publishes them on its website⁸⁹.

In 2017, a total of 973 appeals were received and the SC resolved 1 001 appeals, including appeals transferred from 2016; in contrast, 453 appeals were received in 2018, and 626 appeals were resolved, including appeals transferred from 2017⁹⁰. Complaints cannot be submitted electronically, but formal errors in the filing of complaints are signalled to the complainant, who is given time to correct the error. The fee for filing a complaint is equivalent to 1% of the estimated value of the procurement but cannot exceed EUR 20 000. Submission of a complaint results in automatic suspension of the entire procurement procedure until the SC has made its decision.

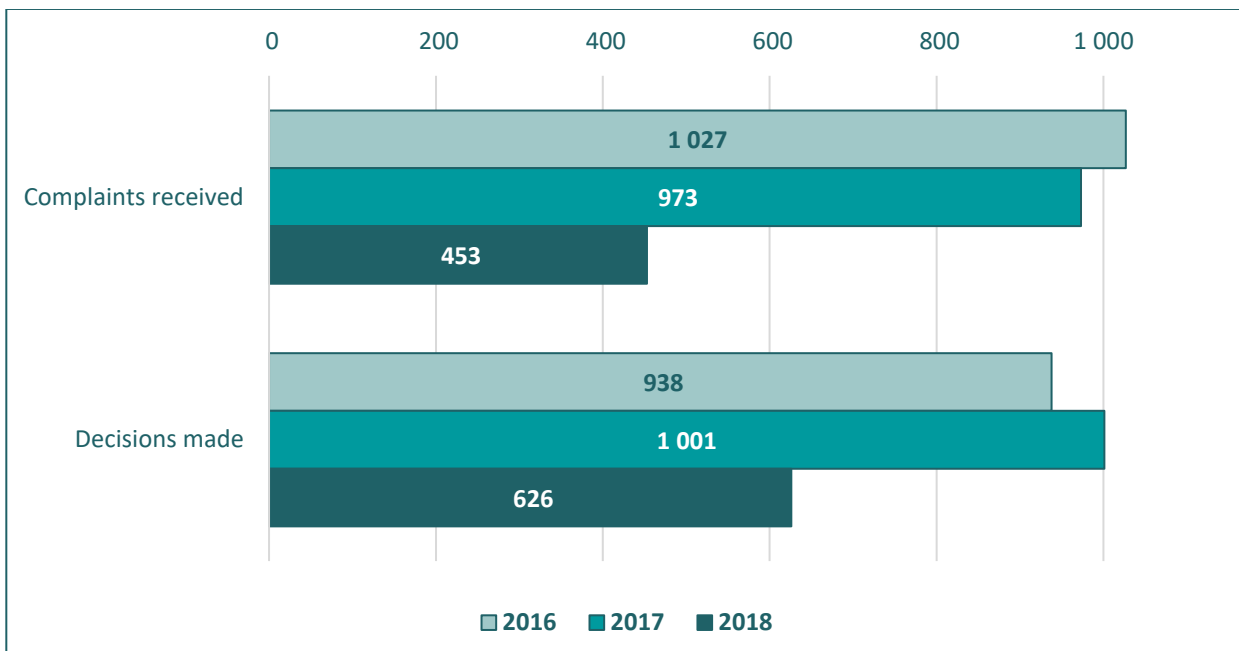
⁸⁷ Low-value procurements are below EUR 15 000 for supply and service contracts and EUR 30 000 for work contracts.

⁸⁸ Information gathered during SIGMA meeting with the SC, 28 January 2019.

⁸⁹ <http://www.kontrola-nabavki.me/1/>.

⁹⁰ Written summary provided by the State Commission to SIGMA, 29 March 2019. 2018 data is provisional, pending publication of the State Commission's Annual Report for 2018, no later than 30 June 2019.

Table 1. Number of appeals received and resolved by the State Commission, 2016-2018



Source: Written summary provided by the State Commission, 29 March 2019.

There was a notable reduction in the number of complaints received and decisions made between 2017 and 2018. Three main reasons for this reduction are apparent, resulting from the 2017 PPL amendments: first, removal of the ‘shopping method’ from the PPL and the introduction of higher thresholds for low-value contracts not subject to the PPL. Prior to the amendments, the right to lodge a complaint was available for contracts awarded using the ‘shopping method’, i.e. above EUR 5 000 and below EUR 25 000 for supplies and services, and below EUR 30 000 for works. The introduction of new, higher thresholds for application of the PPL means that one may no longer file a complaint with the SC for contracts of less than EUR 15 000 for supplies and services and EUR 30 000 for works⁹¹. The second reason for the reduction in complaints are the changes to fee payment rules: prior to the 2017 amendments, some appellants filed last-minute claims but then delayed paying the reimbursement for procedure costs, as they were granted additional time to pay. Since the amendments, the SC may reject appeals if appellants fail to submit evidence of having reimbursed the procedure costs when they lodge an appeal⁹². Third, the time limit for submitting complaints concerning tender documents was changed to ten days before the opening of bids. Bidders can no longer wait until contracts have been awarded to file complaints concerning the tendering documents.

The SC is required to make and publish its decisions within 15 days of receiving complete documentation. However, primarily because of staff and member shortages as well as the high number of complaints, the average time for complaint resolution in 2017 was 44 days. In 2018, the average resolution time improved steadily from 49 days in the January to June period to 27 days in the second half of the year.

Although SC decisions are published on its website, the site’s search tools are not user-friendly and decisions are available only as non-searchable PDF files⁹³. SC council sessions are held twice per week, and all members and legal advisors participate. Decisions are reached during these council sessions, by majority vote. The SC also has fully developed internal software for case management, but it does not use it.

⁹¹ Analysis of data in the Annual Report on the Implementation of the Public Procurement Strategy 2018, 19 December 2018, shows decisions adopted through the shopping method: 269 in 2016, 235 in 2017 and 38 in 2018.

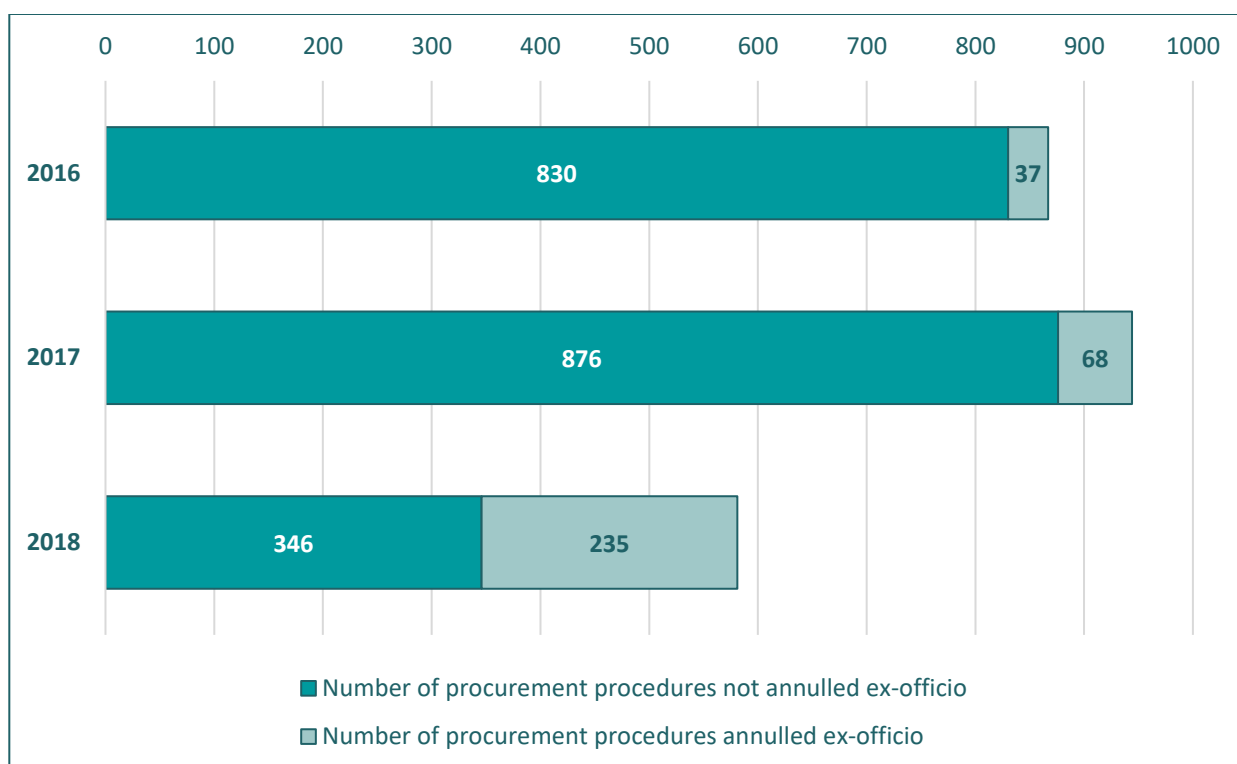
⁹² The SC identified this new provision as a major factor in reducing the number of complaints received (interview with SC, 28 January 2019).

⁹³ Website accessed 13 February 2019.

Montenegro
Public Financial Management – Public Procurement

The decisions of the SC are clear, cite the relevant provisions of the PPL and provide adequate reasoning. However, the SC takes a formalistic approach to review and remedies procedures, as it accepts complaints for formal procedural breaches that do not affect the procurement procedure itself or the awarding of contracts⁹⁴. The SC also acts *ex-officio*, as permitted under the PPL, and takes a similarly formalistic approach, particularly in its analysis of tendering procedures and documents. When acting *ex-officio*, the SC may annul the public procurement procedure, and it may do so without considering the merits of arguments submitted by the parties. The number of *ex-officio* annulled procedures has increased significantly, from 37 in 2016 (4.26% of SC decisions made in 2016) to 235 in 2018 (40.44% of decisions in 2018) (Table 2).

Table 2. Number of procurement procedures in respect of which decisions were made by the State Commission, and number and percentage of public procurement procedures annulled *ex-officio*, 2016-2018



Source: Written summary provided by the State Commission, 29 March 2019.

Appeals of SC decisions can be made to the Administrative Court, but they do not automatically suspend procurement procedures. Contracting authorities may therefore sign contracts without waiting for the Administrative Court’s ruling. In 2017, 86 administrative appeal decisions were issued, and in 31 cases (36%) the court changed or returned the ruling of the SC, whereas in 2018, 79 administrative appeal decisions were issued and the court changed or returned the SC ruling in 20 cases (25%). It takes the Administrative Court 11 months, 5 days on average to resolve cases, including appeals of SC decisions⁹⁵.

Mainly due to the failure to fully harmonise legislation with the Remedies Directive, the lack of remedies for PPPs/concessions, relatively high fees and the lengthy time taken to process complaints, the value for the indicator on the independence, timeliness and competence of the complaints handling system is 2.

⁹⁴ Review of published SC decisions and stakeholder feedback from interviews conducted 28-31 January 2019.

⁹⁵ Information provided by the Administrative Court for average duration of administrative proceedings in general.

Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with EU Directives. Then, the strength of the institutional set-up for handling complaints is analysed. Next, the actual performance of the review system is measured. Finally, the performance of the remedies system for PPPs/concessions is evaluated.						
Overall indicator value	0	1	2	3	4	5

Sub-indicators	Points
Legislation mechanisms for handling complaints in compliance with EU Directives	
1. Right to challenge public procurement decisions	2/5
2. Time limit for challenging decisions taken by contracting authorities/entities	2/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties	1/3
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	5/7
7. Adequacy of the organisational set-up and procedures of the review body	3/4
8. Public availability and timeliness of data on review system	3/4
Performance of the review system	
9. Fairness of fee rates for initiating review procedures	0.5/3.25
10. Actual processing time of complaints	1/3
11. Complaint submission in practice	3/4
12. Quality of decision making by the review body	3/4
13. Cases changed or returned after verification by court (%)	1/2
Performance of the remedies system in PPPs/concessions⁹⁶	
14. Right to challenge lawfulness of actions/omissions in PPPs/concessions procedures	0/5
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members	0/5
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions	0/5
Total⁹⁷	29.5/61.25

⁹⁶ As there are no PPL provisions on remedies available for PPPs/concessions under the 2014 Concessions Directive, the values of sub-indicators 14, 15 and 16 are set at zero.

⁹⁷ Point conversion ranges: 0-8=0, 9-19=1, 20-30=2, 31-41=3, 42-52=4, 53-61=5.

The review and remedies system is not fully compliant with the EU Remedies Directive, and remedies for ineffectiveness or alternative penalties are not provided under the PPL. However, the SC is now adequately staffed and resourced, and the speed of decision making has improved. There was a marked reduction in the number of complaints made in 2018, owing primarily to the 2017 PPL amendments. The number of ex-officio annulled procedures has increased significantly.

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 PPL has explicit provisions to ensure observation of the basic principles of good public procurement: cost-effectiveness and efficiency in competitions; transparency; non-discrimination; and bidder equality. However, the widespread perception that the public procurement procedure is a mechanistic process – underpinned by a formalistic approach and a strong emphasis on control, inspection and legal compliance reviews – detracts from the efficient use of public funds⁹⁸.

The provisions of EU Directives concerning preliminary market consultations by contracting authorities have not yet been transposed into the PPL, and thorough market research and preliminary market consultations are not standard procurement practice⁹⁹. Procurement planning is limited, aside from the identification of available funds in annual procurement plans, which are often amended after initial publication¹⁰⁰. There is little evidence of widely practised, robust contract management.

The open procedure is by far the most common, used in the awarding of 61.84% of contracts in 2017 (85.17% of their total value)¹⁰¹ (Table 3). In 2017, 20.85% of the contracts exceeding national thresholds were awarded using non-competitive procedures; 1.7% were awarded through a negotiated procedure without prior publication; and the urgent procedure accounted for 19.15%, representing 2.29% of the total value of contracts awarded¹⁰².

⁹⁸ SIGMA interviews with stakeholders, 28-31 January 2019. These issues were raised by numerous stakeholder participants in interviews with SIGMA. During previous SIGMA interviews in 2017, the SAI highlighted that public procurement procedures are too formalistic and do not focus on the main principles and objectives of public procurement. In 2019, the SAI again raised concerns about whether the procurement system delivers effective outcomes.

⁹⁹ The SAI's Parallel Performance Audit report on planning for the procurement of medical equipment concluded that healthcare institutions in Montenegro do not conduct proper procurement planning, market research is only partly carried out and research results are not taken into account when planning.

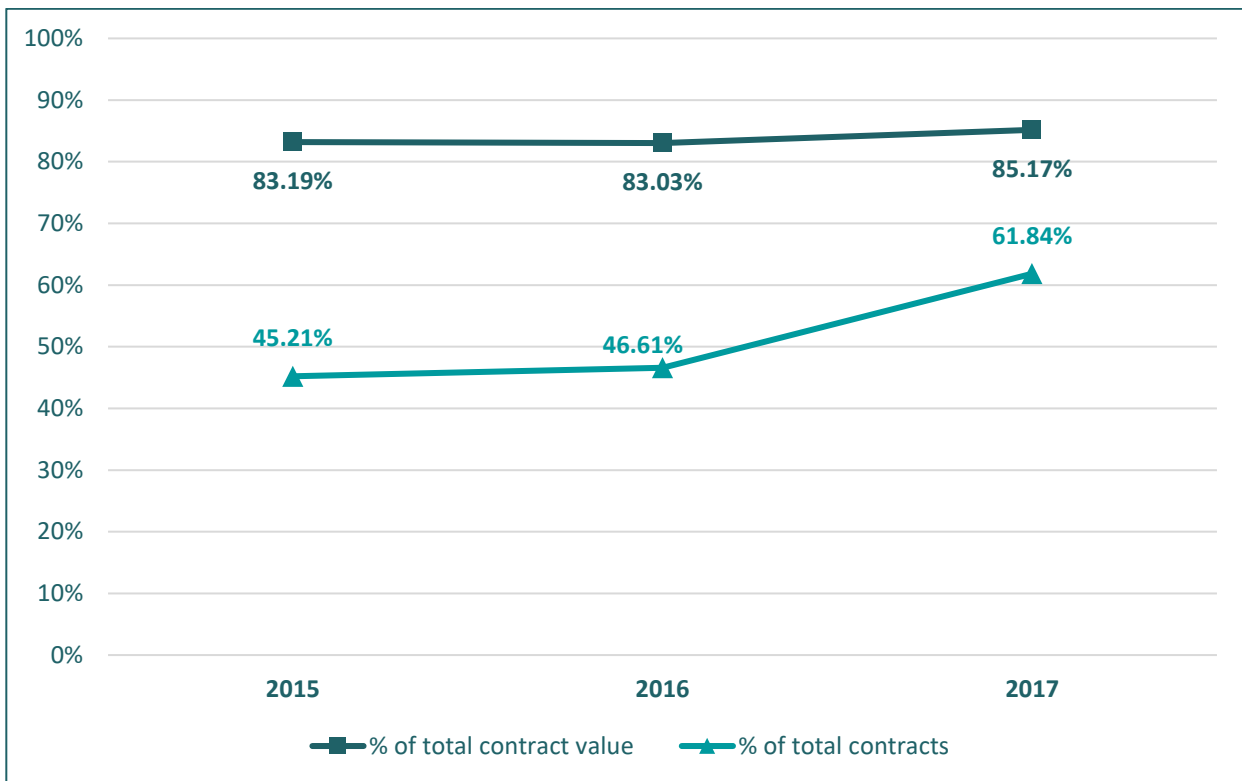
¹⁰⁰ SIGMA interviews with the AIA and SAI, 28-31 January 2019. SAI Annual Report 2018, pp. 69-75, cites examples of significant amendments to public procurement plans, in terms of value.

¹⁰¹ PPA (2018), Public Procurement Report for 2017, Table 31.

¹⁰² *Idem*.

Montenegro
Public Financial Management – Public Procurement

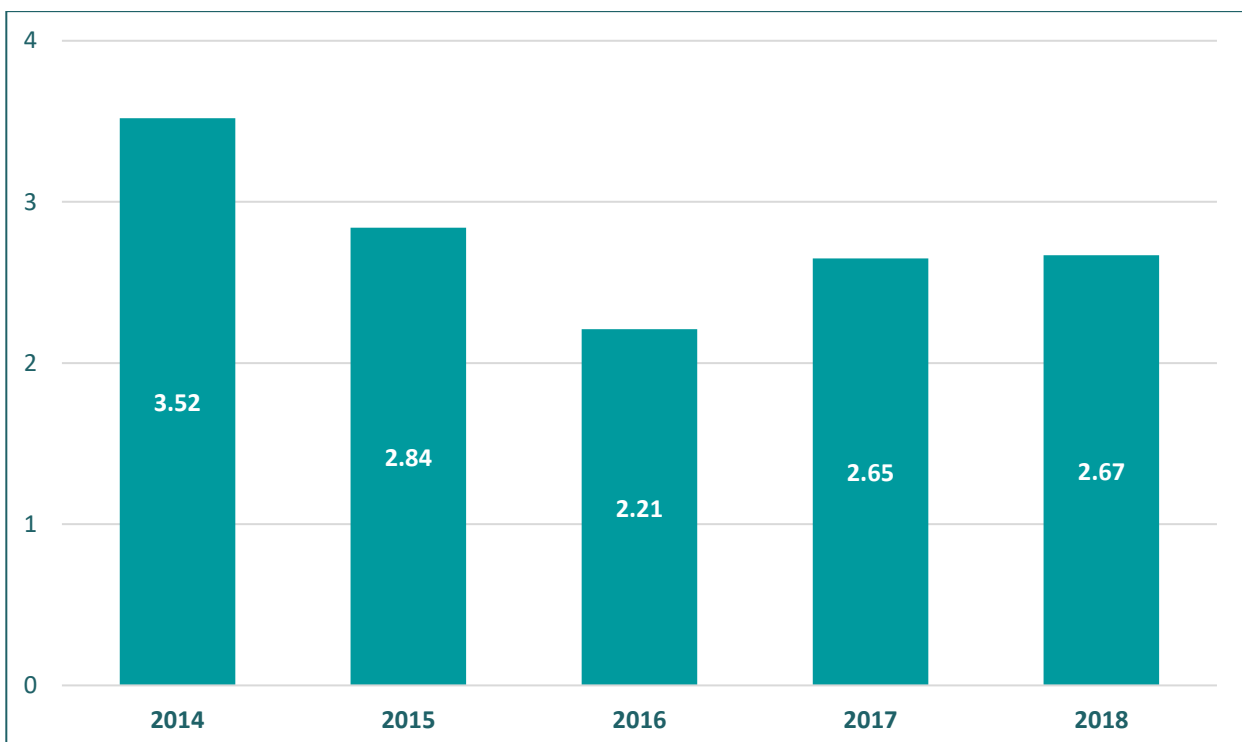
Table 3. Contracts exceeding national thresholds and awarded through open procedures, percentage of total and of value



Source: PPA (2018), Public Procurement Report for 2017, Table 31.

The average number of tenders submitted per tender procedure was 2.65 in 2017 and 2.67 in 2018 (Table 4).

Table 4. Average number of tenders submitted per tender procedure, 2014-2018



Source: 2014-2017 Data - PPA (2018), Public Procurement Report for 2017, Tables 45 and 46.

Montenegro
Public Financial Management – Public Procurement

The PPL provides for two possible criteria for awarding tenders: lowest price, and most economically advantageous. Lowest price is the dominant criterion, used in 90.59% of procurements in 2017 – a decrease from 93.02% in 2016¹⁰³. The rules for awarding framework agreements are stricter than those prescribed by the *acquis*, requiring a minimum of three economic operators for multi-supplier framework agreements. The percent value of procurements awarded under framework agreements therefore fell from 4.63% in 2016 to 2.27% in 2017¹⁰⁴. Joint procurement is permitted under the PPL.

There have been significant developments in centralised purchasing. Taking effect 1 January 2018, the role of the PA was expanded to include a centralised procurement function for ten categories of goods and services¹⁰⁵, so that central government contracting authorities and state funds¹⁰⁶ are now obligated to procure these goods and services through the PA. The goods and services subject to this centralised procurement are office supplies, computer materials and equipment, fuel and engine oils, office furniture, means of transport, electronic communications services (mobile and fixed telephony), electronic communications services (internet), sanitary and other services (disinfection, insect and animal pest control), insurance of civil servants and state employees, and insurance of assets held by the state of Montenegro (movable and immovable property). The PA is responsible for procurement procedures for the designated goods and services, and it receives payment from the relevant contracting authority for the cost of running the procedures. The contracting authority then pays the PA for the goods and services procured.

In 2018, the PA commenced procurement procedures in nine of the ten categories. It awarded 29 contracts in 2018 with a total value of EUR 8 234 865¹⁰⁷, using the open procurement procedure in most cases; the PA has not yet established any framework agreements. The current PPL does not provide for the use of dynamic purchasing systems, electronic catalogues or e-auctions – tools commonly used by central purchasing bodies – and there is no central e-procurement system in place to support these tools. Furthermore, the central purchasing function was introduced without enough advanced planning and capacity building to ensure the most efficient and effective use of centralised purchasing and procurement procedures from the outset.

The PPL does not include any provisions for contract management by contracting authorities, except the obligation to publish notices of contract amendments. AIA inspections of public procurement include controls on the “conclusion and implementation of public contracts”, but this does not qualify as contract management.

Contracting authorities are obligated to publish contract notices and upload tendering and other procurement-related documents to the PP Portal.

Mainly due to the lack of guidelines on preliminary market consultations and framework agreements, the extensive use of the lowest-price award criterion, the absence of effective mechanisms for contract management and a lack of routine *ex-post* evaluations of procurement processes and contract performance, the value for the indicator on the efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations is 2.

¹⁰³ PPA (2018), Public Procurement Report for 2017, Tables 54 and 55.

¹⁰⁴ PPA (2018), Public Procurement Report for 2017, Table 31.

¹⁰⁵ PPL, Article 3, provides for the possibility of centralised procurement. Regulation No. 074/17 on the Facilitation of Public Procurement of Goods and Services, Official Gazette of 8 November 2017 and amended 25 October 2018, expanded the role of the PA to cover mandated central purchasing.

¹⁰⁶ Regulation No. 074/17, which refers to state administration bodies, administrations within the state administration bodies, and independent administrative bodies, was amended 25 October 2018 to add state funds to the list. Local self-government and defence procurement are not addressed.

¹⁰⁷ Provisional 2018 data provided by the MoF/PPA, pending publication of the MoF/PPA Directorate Annual Report for 2018, to be submitted to the Government no later than 31 May 2019 (PPL, Article 118).

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	3/5
2. Presence and use of cost estimation methods and budgeting	2/2
3. Perceived quality of tender documentation by contracting authorities and economic operators (%)	1/4
Competitiveness and transparency of conducted procedures	
4. Perceived fairness of procedures by businesses (%)	4/4
5. Contracts awarded by competitive procedures (%)	3/5
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	0/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing	3/5
11. Penetration of e-procurement within the procurement system	3/5
Contract management and performance monitoring	
12. Presence of mechanisms requiring and enabling contract management	2/6
13. Contracts amended after award (%)	4/4
14. Use of <i>ex post</i> evaluation of the procurement process and of contract performance	3/6
Risk management for preserving the integrity of the public procurement system	
15. Existence of basic integrity tools	4/4
Total¹⁰⁸	34/65

The PPL has explicit provisions to ensure that the basic principles of good public procurement are observed, but public procurement procedures are often perceived as a mechanistic process, underpinned by a formalistic approach. There is therefore a strong emphasis on control, inspection and legal compliance reviews. Framework agreements are used, and centralised purchasing is becoming more common, but e-procurement tools have not yet been developed and there is little evidence of proactive contract management.

¹⁰⁸ Point conversion ranges: 0-12=0, 13-23=1, 24-34=2, 35-45=3, 46-56=4, 57-65=5.

Key recommendations

Short-term (1-2 years)

- 1) The new PPL, intended to align with the 2014 Directives, should be adopted and implemented together with secondary legislation and complementary regulations, preferably prepared before the new PPL is adopted and approved before the PPL enters into force.
- 2) The new PPP/Concessions Law should be adopted and implemented together with the necessary secondary legislation, complementary regulations, guidelines and capacity-building measures.
- 3) New draft legislation on defence and security procurement should be prepared, aligned with the Defence and Security Directive.
- 4) The Government should review the impact and effectiveness of central purchasing, and should support development with capacity-building measures.

Medium-term (3-5 years)

- 5) The MoF should prepare new guidelines with practical examples, focused especially on preliminary market consultations, procurement planning, use of qualitative evaluation criteria and contract management.
- 6) The MoF should ensure that the development and roll-out of the e-procurement system incorporate the active involvement and engagement of all stakeholders, including contracting authorities, central procurement bodies and economic operators, and that the necessary guidelines and capacity-building measures are in place.

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