



SIGMA
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MONITORING REPORT

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

KOSOVO*

**November
2021**

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

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List of abbreviations and acronyms

ACA	Anti-Corruption Agency
AFS	Annual Financial Statement
AG	Auditor General
BO	budget organisation
BRS	Better Regulation Strategy
CEPEJ	European Commission for the Efficiency of Justice
CHU	Central Harmonisation Unit
CoG	centre-of-government
CPA	Central Procurement Agency
CSL	Civil Service Law
CSO	civil society organisation
CTO	Chief Technical Officer
DMPO	Department for the Management of Public Officials
EDI	Electronic Data Interchange
EI	European integration
ESA	European System of National and Regional Accounts
EU	European Union
FMC	financial management and control
GAWP	Government Annual Work Plan
GDP	gross domestic product
GSS	Government-Supporting Secretariat
HR	human resources
HRM	human resource management
IA	internal audit
IC	internal control
IOBSC	Independent Oversight Board for the Civil Service
IPPF	International Professional Practice Framework for Internal Auditing
KIPA	Kosovo Institute for Public Administration
LAPD	Law on Access to Public Documents
LGAP	Law on General Administrative Procedures
LO	Legal Office
LOFSAIA	Law on the Organisation and Functioning of the State Administration and Independent Agencies
LPO	Law on Public Officials
LSCS	Law on Salaries of Civil Servants

MEI	Ministry of European Integration
MIA	Ministry of Internal Affairs
MoF	Ministry of Finance
MTEF	medium-term expenditure framework
NAC	National Admission Commission
NAO	National Audit Office
NDS	National Development Strategy
NFC	near-field communication
NGO	non-governmental organisation
NPISAA	National Programme for the Implementation of the Stabilisation and Association Agreement
OCSAP	Office for Co-ordination of the Stabilisation and Association Process
OPM	Office of the Prime Minister
PAMS	Strategy on the Modernisation of Public Administration
PAR	public administration reform
PFM	public financial management
PIFC	public internal financial control
POE	publicly owned enterprise
PPL	Law on Public Procurement
PPP	public-private partnership
PPRC	Public Procurement Regulatory Commission
PRB	Procurement Review Body
RoP	rules of procedure
SAA	Stabilisation and Association Agreement
SAI	supreme audit institution
SCS	senior civil service
SIPPC	Strategy for Improving Policy Planning and Co-ordination
SME	small and medium-sized enterprise
SPO	Strategic Planning Office

Introduction

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

The *Principles of Public Administration*¹ set out what good public governance entails in practice and outline the main requirements to be followed by countries during the European Union (EU) integration process. Good public governance is key for achieving economic growth, competitiveness and better quality of life. Democratic governance and the rule of law require capable, accountable and effective public administrations. In its 2014 and 2018 Enlargement Strategies, the European Commission (EC) highlighted public administration reform (PAR) as one of three “fundamentals first” areas of the EU enlargement process: “Addressing reforms in the area of rule of law, fundamental rights and good governance remains the most pressing issue for the Western Balkans. It is also the key benchmark against which the prospects of these countries will be judged by the EU”².

A regional series, with a long-term perspective

This monitoring report assesses the state of play and progress in improving the quality of national public administrations. Given the geostrategic importance of the Western Balkans to the EU, and the ongoing accession negotiations, SIGMA (Support for Improvement in Governance and Management) conducts regular monitoring of the region. In 2017, SIGMA established a baseline in all areas of public administration. In 2019, monitoring was conducted against selected Principles. The full scope is covered again in this 2021 report, which compares performance against the 2017 baseline and regional averages. By analysing the long-term perspective, significant changes are identified.

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

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

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

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

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

² European Commission (2018), *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, p. 4, [communication-credible-enlargement-perspective-western-balkans_en.pdf](https://ec.europa.eu/eip/wp-content/uploads/2018/06/communication-credible-enlargement-perspective-western-balkans_en.pdf) (europa.eu)

Methodology

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

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

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

Data sources and validation

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

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

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

Indicator values reflect the level of maturity and preparedness of administrations – from 0 to 5

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

The point allocation is constructed so that a Kosovo can only receive an overall value of 2 on the basis of the quality of its legislative and regulatory framework; a value of 3 cannot be achieved without showing that implementation of key processes is happening in practice; and in order to obtain a value of 4, Kosovo

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

⁴ Regional Cooperation Council, <https://www.rcc.int/balkanbarometer/home>.

needs to show a consistent achievement of relevant outcomes. The value of 5 is reserved for outstanding performance and full compliance with the Principles and the standards for good public governance.

In 2021, averages of the indicator values have also been calculated for each of the six thematic areas of the Principles of Public Administration. This enables comparison of overall trends across the whole administration, over time, and across the region, as shown in the indicator comparison charts:

- 1) Strategic framework of public administration reform
- 2) Policy development and co-ordination
- 3) Public service and human resource management
- 4) Accountability
- 5) Service delivery
- 6) Public financial management

Understanding how the indicator values are calculated

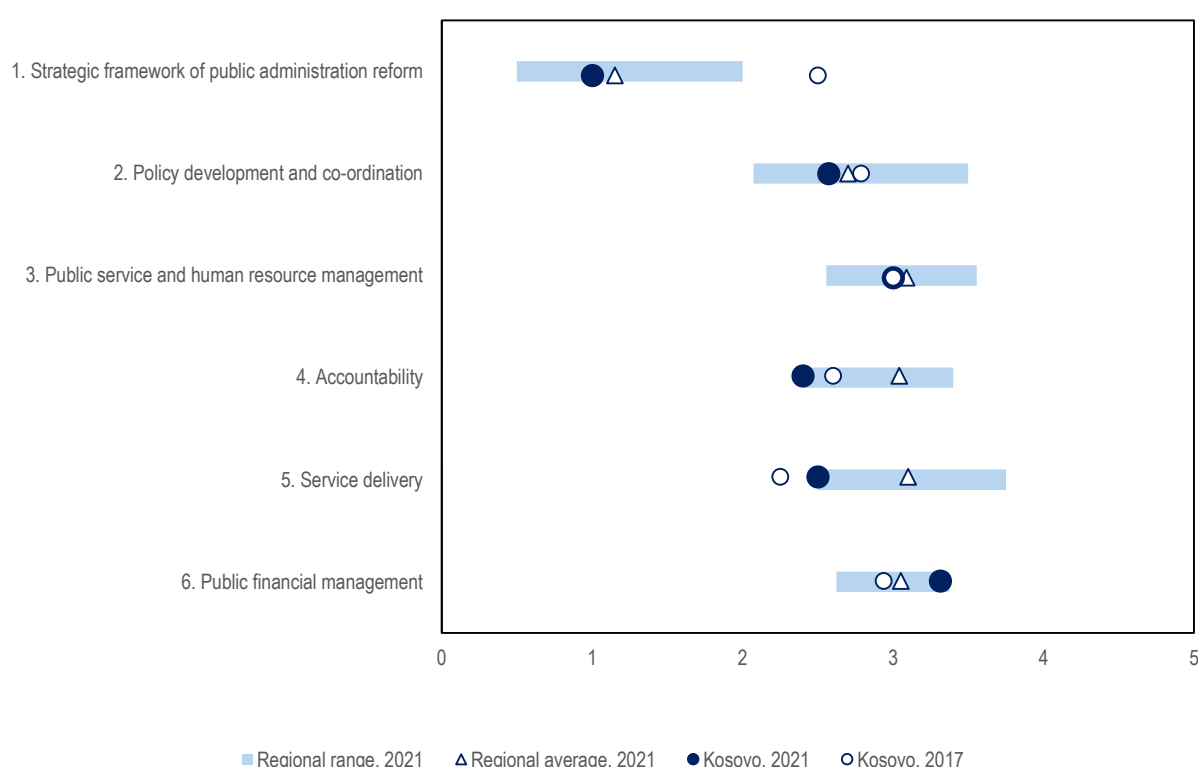
Across the six thematic areas, the framework is composed of 48 Principles. Each Principle has one or two indicators. There are 52 indicators in total, with 340 sub-indicators and 1 000 individual criteria. Indicator values are presented at the top of the overview tables, on a scale from 0 (lowest) to 5 (highest). The indicator value is based on the total number of points received for the sub-indicators. The point conversion tables are accessible in the Methodological Framework. A three-digit reference number precedes the titles of the indicators: the first number refers to the area, the second to the Principle and the third shows whether this is the first or second indicator belonging to that Principle.

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

Executive summary

Kosovo has been marked by both political uncertainty and the impact of the COVID-19 pandemic in recent years. Progress across all areas of public administration (PAR) has slowed since the previous assessments in 2017 and 2019. This is visible in the indicator values. In the areas of strategic framework of PAR, policy development and co-ordination and accountability, the average values for 2021 are below those for 2017. Service delivery improved slightly since 2017 but the value is low in comparison to other countries in the region. Kosovo remains one of the weakest performers in the Western Balkans, with only the value for public financial management (PFM) being above the regional average (3.3 as compared to 3.1 for the region).

Kosovo performs worse in 2021 than in 2017 in all areas except service delivery and PFM



The strategic framework of PAR needs to be streamlined and more operational

The framework for PAR in Kosovo is incomplete. The Public Finance Management Reform Programme expired in 2020 and has not been duly extended or replaced with a new plan. The Better Regulation Strategy does not have a valid action plan. The Public Administration Modernisation Strategy and the Strategy for Improving Policy Planning and Co-ordination are in force, but coming to an end in 2021. The implementation of PAR commitments from the four plans is low and has been in decline since 2018. Implementation of reforms relies heavily on donor support. Co-ordination of the reform agenda is functional at political level, but not at administrative level and non-governmental stakeholders are not involved in the monitoring process.

Policy development is poorly co-ordinated which leads to unrealistic plans

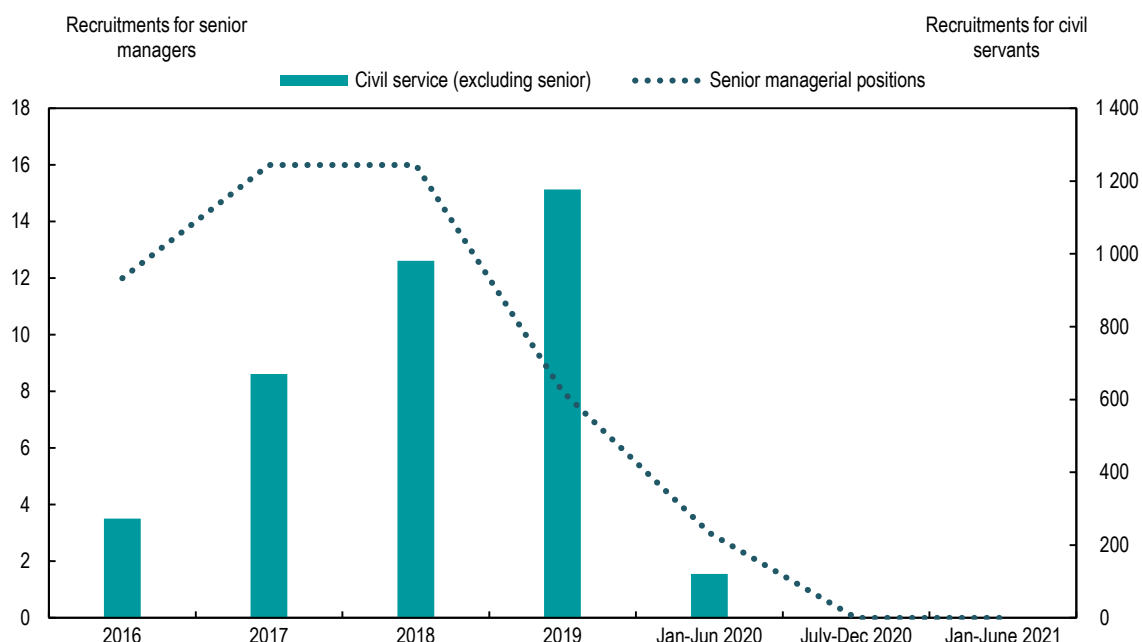
The main challenges with respect to policy development relate to weak co-ordination across institutions and across strategic documents, which means that policy planning is over-ambitious or unrealistic and leads to significant numbers of initiatives being carried over from one year to the next. The alignment between domestic policies and those relating to European Integration is also weak. Government activity

lacks transparency, particularly with respect to decision-making and reporting on progress. The Assembly currently plays a very limited role in reviewing the work of the Government. Overall, a more joined-up approach to policy development would make the policy process more efficient and open.

Human resource management (HRM) requires a major overhaul

The renewed and comprehensive legislative framework for the public service, aiming at creating a unified merit-based civil service system and establishing common principles of employment across the public sector, was adopted in 2019, but entered into force only partially and only in mid-2020. Although the majority of secondary legislation has been prepared, the actual implementation of the law is patchy, with, for example, no recruitment procedures launched in central administration since July 2020. The central HRM body, located in the Ministry of Internal Affairs, which is undergoing a long-running reorganisation, does not have sufficient capacities to fulfil its mission; moreover, it has significant problems with collecting basic data to report on the civil service. A new reform of the remuneration of civil servants needs to be prepared once again and take into account the Constitutional Court's guidance.

The problems in HRM are illustrated by the number of vacancies offered in external competitions for civil servants and for senior managerial positions before and after the entry into force of the LPO in June 2020



Source: Ministry of Public Administration, annual reports on civil service, <https://mpb.rks-qov.net/ap/page.aspx?id=1,140>, Ministry of Internal Affairs, DMPO data for 2020 and 2021.

Service delivery improvement lacks leadership and suffers from an implementation gap

The progress in the service delivery area came to a standstill, resulting in Kosovo demonstrating both slow progress and occasional regress in improving service delivery including the digital transformation, making it fall behind compared to the region. Incomplete and weak institutional set-up and a lack of strong leadership hinders the development and implementation of a comprehensive and co-ordinated service delivery policy. Despite progress with some important initiatives (Government Gateway, the Law on General Administrative Procedures, e-Kosovo portal), these are not sufficiently translated into improved service delivery for citizens and business, demonstrated by the deteriorating citizen and business perception of the quality of services. Important enablers, such as the digital signature and e-payment solutions are still not available and the one-stop shop programme is running far behind schedule. The progress in individual agencies on service improvement tends to be piecemeal rather than part of a comprehensive transformation of citizen-centric service delivery, with very limited use of quality management and user-engagement tools

Accountability, transparency and external oversight mechanisms have all been weakened

Many of the key mechanisms for citizens and businesses to hold the national administration to account for its actions have not improved or even deteriorated since 2017. Access to information has been severely affected by the long delay in appointing the Commissioner of Public Information, and the new legislation may not give the necessary supervisory powers to the newly created specialised agency. External oversight through the National Audit Office, Ombudsperson and the courts is also generally less effective, and public trust in these institutions has been falling to a very low level. Kosovo continues to have an extremely high backlog of administrative court cases. Finally, while the new Law on Organization and Functioning of State Administration and Independent Agencies laid strong foundations for better organisation of central government, the lack of implementation means that results-oriented governance of public agencies is still absent, and Kosovo still has the highest number of executive agencies subordinated to Parliament in the region. Delegation of decision-making has, however, improved.

PFM has been strengthened, though areas for improvement remain in financial management and audit

The budgetary framework has been strengthened and budget credibility has improved. However, some gaps do remain in the budget information. The credibility of the medium-term revenue and expenditure plans needs strengthening as significant deviations between the outturns and forecasts indicate challenges in estimating and collecting revenues. There have been improvements in the credibility of cash flow planning and public debt management practices and the level of public debt to gross domestic product (GDP) is relatively low risk at only 21.8% of GDP. There is frequent and comprehensive in-year reporting, and timely publication of annual financial statements. However, the monitoring of fiscal risks is weak and transparent reporting on the financial performance of state-owned enterprises needs to be addressed. The regulatory and operational frameworks for internal control (IC) and internal audit (IA) are largely established. However, there are significant challenges in the implementation of IC and managerial accountability, and there are still some significant IA capacity issues and areas for improvement.

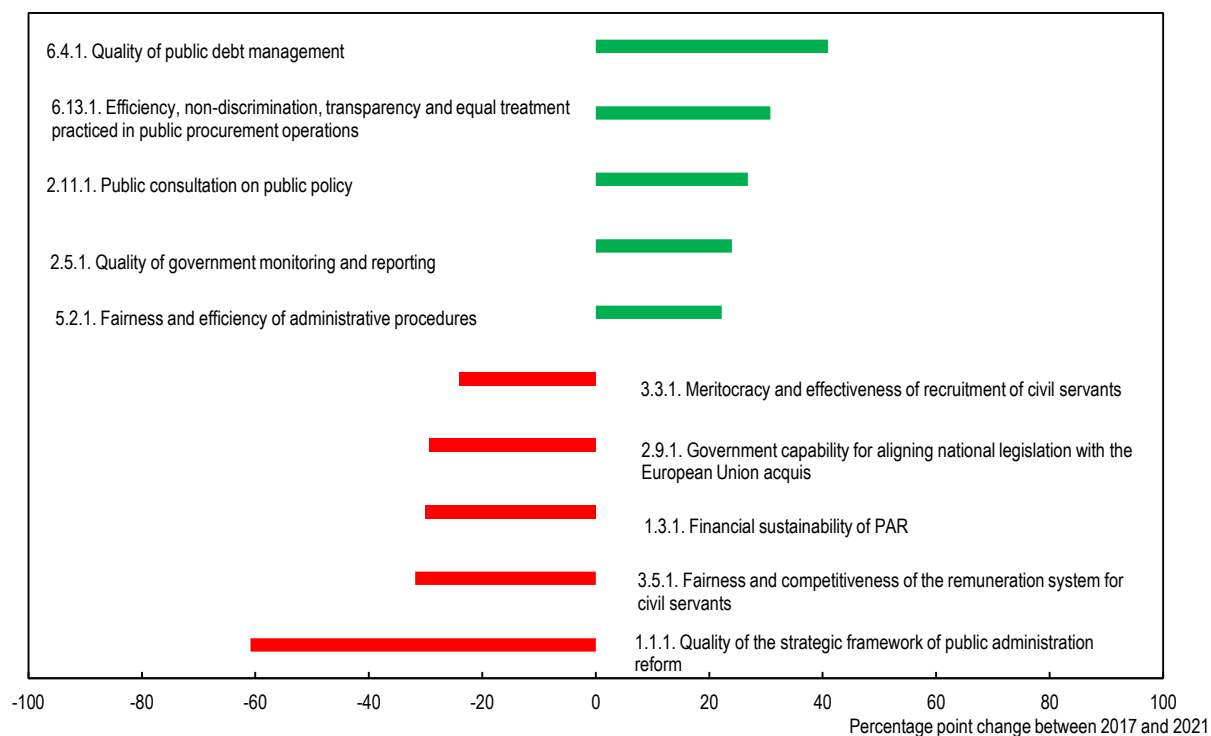
No specific progress related to the legal framework in public procurement has been registered since 2017. The introduction of 15% domestic preferential treatment affected the principles of equal treatment and non-discrimination and was not in line with the commitments in the Stabilisation and Association Agreement. An advanced e-procurement platform has been implemented, covering all the stages of the procurement process, including contract management. However, the main challenges in practice are linked to poor planning and cost estimations, systematic issues of artificial splitting of the contracts and the excessive use of the lowest-price criterion. There is a need to strengthen the administrative capacities of all the central institutions.

The independence and legislative framework of the National Audit Office (NAO) is aligned to international standards and is respected in practice. The implementation of International Standards of Supreme Audit Institutions by the NAO is also well progressed but there is still scope for further improvement. The NAO's audit reports are used by the Assembly to scrutinise the government. However, the implementation rate of the recommendations remains low, limiting the impact of the NAO.

The way forward for PAR:

- Restructure the PAR framework to make it more streamlined, operational and co-ordinated.
- Strengthen all aspects of public sector HRM to ensure that the civil service has the capacity to implement a reform agenda.
- Enhance managerial accountability in the public sector and move ahead with the rationalisation of agencies.
- Address issues of transparency and openness across several areas, ranging from access to information and communication of government decisions to parliamentary oversight, in order to strengthen public trust.

PFM indicators on debt management and procurement operations have increased most since 2017, whereas the quality of strategic framework and the remuneration system for civil servants have regressed most



Strategic Framework of Public Administration Reform

The Principles of Public Administration

Strategic Framework of Public Administration Reform

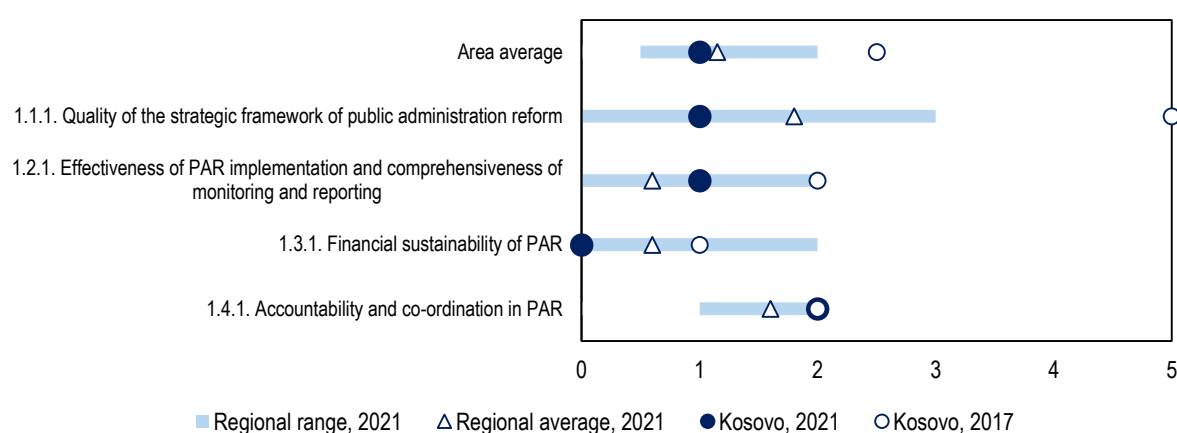
Principle 1	The government has developed and enacted an effective public administration reform agenda which addresses key challenges.
Principle 2	Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.
Principle 3	The financial sustainability of public administration reform is ensured.
Principle 4	Public administration reform has robust and functioning management and co-ordination structures at both the political and administrative levels to steer the reform design and implementation process.

Strategic Framework of Public Administration Reform

Summary and recommendations

As of the end of June 2021, the strategic framework of public administration reform (PAR) is only partially in place in Kosovo. The average indicator value for this area has decreased from 2.5 in 2017 to 1 in 2021. This is mainly due to the expiry of the Public Finance Management Reform Strategy (PFM Reform Strategy), which has not been extended by the Government or replaced with a new plan for reform, which means the strategic framework of PAR is incomplete.

Indicators have deteriorated as key PAR policies and action plans are not in place



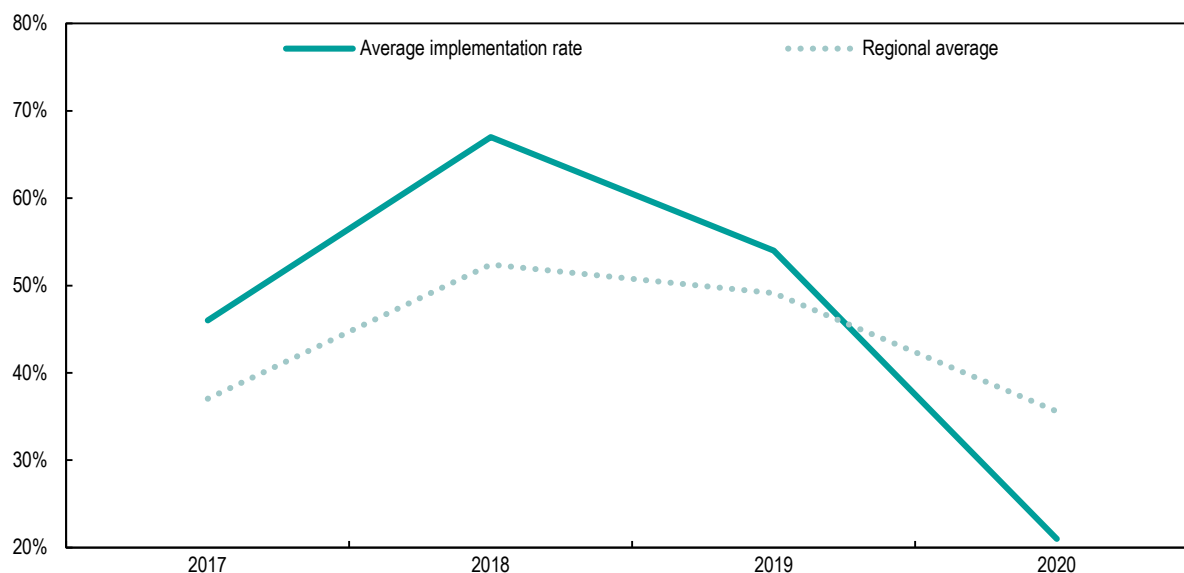
The Government has defined the strategic framework of PAR consisting of four strategies covering the five thematic areas of PAR, but only two of the strategic plans are in place. The Strategy for the Modernisation of Public Administration covers public service and human resource management (HRM) as well as accountability and service delivery. The Strategy for the Improvement of Policy Planning and Co-ordination covers one part of the policy development and co-ordination area. However, PFM is not covered by a duly adopted planning document following the expiry of the PFM Reform Strategy in 2020. In addition, one of the strategies in the area of policy development and co-ordination, the Better Regulation Strategy 2.0 (BRS), lacks a valid action plan for 2021. Therefore, the quality of the strategic framework of PAR cannot be comprehensively assessed. The Government's central planning documents recognise PAR as a priority, but the legislative commitments from PAR strategies are not consistently included to the legislative plans of the Government. Consultation with external stakeholders has not led to their genuine involvement in PAR planning.

A well-functioning monitoring and reporting framework is only partially in place, as the development of annual monitoring reports is inconsistent. The 2020 monitoring report on the PFM Reform Strategy has not been prepared by the time the data collection for this assessment was completed (July 2021), and none of the reports are publicly available. While outcome-level information is used for monitoring, detailed descriptions of the performance indicators are not fully in place. Reports are developed without the involvement of civil society organisations (CSOs). The overall implementation rate of reform activities and the fulfilment of reform objectives is low.

In the absence of valid planning documents for some aspects of PAR, the financial sustainability and quality of costing cannot be assessed. A review of the most expensive activities set out in the planning documents for 2020 revealed that, while funds are available for the donor-funded activities, budget allocations for activities to be financed from the state budget are less than the amounts estimated in the respective PAR plans. The implementation of PAR relies heavily on donor support.

Co-ordination of PAR is functional at the political level through the Ministerial Council for Public Administration Reform (MCPAR), but not at the administrative level. There are no active co-ordination bodies for individual PAR strategies at the administrative level other than for the PFM Reform Strategy. Non-governmental stakeholders are not involved in the established co-ordination structures. Assignment of managerial responsibility for reform activities is incomplete.

The implementation rate of PAR activities has been in decline since 2018



Source: Annual reports of PAR strategies.

Short-term recommendations (1-2 years)

- 7) The Government, under the institutional leadership of the Office of the Prime Minister (OPM), the Ministry of Finance (MoF) and the Ministry of Internal Affairs (MIA) should approve a new comprehensive strategic framework of PAR covering the period beyond 2022. The new framework should comply with all the domestic content-related and procedural requirements established for strategy development.
- 8) The Government should consider further reducing the number of PAR strategies to minimise the co-ordination and monitoring burden during implementation and free up capacity for actual implementation.
- 9) The Government should establish one fully functional administrative-level co-ordination body for monitoring and reporting on all PAR strategies, comprising senior-level representatives of all key implementing institutions.
- 10) The Government should include the representatives of non-governmental organisations in PAR co-ordination at both the political and administrative levels.
- 11) The MoF, in co-operation with the OPM and the MoI, should include in the Medium-term Expenditure Framework a clear reference to the total cost of the national PAR policy, including recurrent expenditures of the key institutions involved, on both an annual and medium-term basis. Regular financial monitoring of the strategic framework of PAR should be carried out to help ensure all planned activities are implemented smoothly.


Medium-term recommendations (3-5 years)

- 12) During the development of the next action plans under the strategic framework of PAR (those entering into force from 2024 and 2025), the Government should review the functioning of the strategic framework of PAR and its ability to address potential challenges, to ensure the achievement of final reform objectives and targets.
- 13) The Government should strengthen the financial planning for PAR and gradually increase the domestic funding for PAR to reduce overreliance on donor financing.

Analysis

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

Overall, the value for the indicator 'Quality of the strategic framework of public administration reform' is 1. This represents a sharp decline compared to the indicator value of 5 in 2017. This is primarily because the strategic framework of PAR is incomplete, given the lack of a planning document in the area of PFM that could be taken into account for the assessment.

Indicator 1.1.1 - Quality of the strategic framework of public administration reform		
This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms.		
A separate indicator (1.1.3) measures financial sustainability and cost estimates in detail.		
Overall 2021 indicator value  since 2017	0	1
	2	3
	4	5
	Points 2021	Change from 2017
1. Coverage and scope of PAR planning documents	4/5	-1
2. Prioritisation of PAR in key horizontal planning documents	2/2	=
3. Coherence of PAR planning documents	0/4	-4
4. Presence of minimum content of PAR planning documents	0/7	-7
5. Reform orientation of PAR planning documents (%)	0/3	-1
6. Quality of consultations related to PAR planning documents	0/2	-1
Total	6/23	-14

As defined in the Government Decision on the Ministerial Council for PAR (MCPAR)¹, the structure of the strategic framework of PAR in Kosovo comprises four planning documents:

- 1) The Strategy for Improving Policy Planning and Co-ordination 2017-2021 (SIPPC)²
- 2) The Better Regulation Strategy 2.0 2017-2021 (BRS)³
- 3) The Strategy for Modernisation of Public Administration 2015-2020 (PAMS)
- 4) The PFM Reform Strategy 2016-2020.

The SIPPC and the BRS cover the area of policy development and co-ordination. Currently, only the SIPPC has a valid action plan⁴ while the most recent action plan for the BRS expired in 2020. The PAMS covers the areas of public service and HRM, accountability and service delivery. The duration of the strategy has been extended with an Action Plan⁵ that covers 2021. The PFM Reform Strategy did cover

¹ Article 3 of the Decision on the organisation and functioning of the council of ministers of public administration reform and structures responsible for co-ordinated, monitored and implemented strategic documents for public administration reform; Decision number: 04/09 of 26 April 2021.

² Adopted on 21 December 2016.

³ Adopted on 18 September 2018.

⁴ Adopted on 22 July 2020.

⁵ Adopted on 8 June 2021.

the PFM area but expired in 2020. A transitional action plan to extend the duration of the strategy was developed, but it has not been approved by the Government⁶. Therefore, from the perspective of this assessment, all PAR thematic areas except for PFM are covered by planning documents.

The Government comprehensively recognises PAR as a priority policy area in its key central planning documents. The Government Programme 2021-2025⁷ and the National Programme for Implementation of the Stabilisation and Association Agreement 2020-2024⁸ contain detailed measures covering all five PAR areas, while the National Development Strategy 2016-2021⁹ includes detailed measures on all areas except for public service and HRM.

Table 1. PAR strategies in force as of 2021

Strategy document title	Valid at the time of the assessment?	Valid action plan?
Better Regulation Strategy 2.0 2017-2021	Yes	No Expired 2020
Strategy for Improving Policy Planning and Co-ordination 2017-2021	Yes	Yes
Strategy on Modernisation of Public Administration 2015-2020	Yes Extension for 2021 adopted 8 June 2021	Yes Extension for 2021 adopted 8 June 2021
Public Finance Management Reform Strategy 2016-2020	No Expired 2020	No Expired 2020

Given the gaps in the strategic framework for PAR described above, no meaningful assessment of the coherence between the various PAR-related plans can be made. The coherence between the PAR plans and the legislative plans of the Government is not ensured. Indeed, the PAMS Action Plan 2021 refers to the harmonisation of 50 draft laws with the Law on General Administrative Procedures, but there is no indication of this ambitious plan in the Government Annual Work Plan (GAWP). Furthermore, as indicated by the Ministry of Internal Affairs (MIA), the exact list of the laws requiring harmonisation is yet to be defined as of June 2021.

The quality of the valid planning documents is mostly good, as the SIPPC, the BRS and the PAMS¹⁰ all contain a situation analysis, clear policy objectives and outcome-level indicators with defined target values and prescribed monitoring, reporting and evaluation requirements. The SIPPC Action Plan 2020-2021 and the PAMS Action Plan 2021, being the only two valid action plans, also meet the quality requirements relating to reform activities. Both include activities or measures with clear implementation responsibilities and deadlines that are costed and can nearly all be considered reform oriented. However, owing to the expiry of the PFM Reform Strategy with no duly adopted extension and to the absence of an action plan for the BRS, minimum content-related requirements for PAR strategic documents are not met.

⁶ The transitional plan was adopted by the Minister of Finance on 29 June 2021. The original strategy was adopted by the Government, which is the requirement for Government-wide strategies.

⁷ Adopted on 7 May 2021.

⁸ Adopted on 14 July 2020.

⁹ Adopted on 22 January 2016.

¹⁰ The PAMS itself is considered to be extended through its Action Plan for 2021, even if the document does not have an updated situation analysis or repeats the monitoring setup.


Apart from the PFM Transitional Action Plan for 2021, which was disclosed for public consultation for only three days in March 2021, all planning documents were open for consultation for at least two weeks during their latest amendment or adoption. However, based on the analysis of the available consultation reports and the plans, apart from the PAMS Action Plan 2021, non-governmental stakeholders neither provided comments on the drafts nor were involved in drafting workshops for these documents.

Conclusion

PAR is recognised as a priority by the Government central planning documents. However, the strategic framework of PAR is incomplete, given that there is no duly adopted planning document for the PFM area and the BRS does not include a valid action plan. The valid strategic plans are mostly of good quality, but coherence at the level of legislative initiatives is not in place, and consultation with external stakeholders did not lead to their genuine involvement and contribution.

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

Overall, the value for the indicator 'Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting' is 1, representing a deterioration compared with the indicator value of 2 in 2017. The difference is mainly due to the incomplete setup and application of monitoring as well as to a low implementation rate. However, progress has been made with respect to the reporting on and fulfilment of PAR objectives.

Indicator 1.2.1 - Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting						
This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Comprehensiveness of PAR reporting and monitoring systems					1/7	-5
2. Implementation rate of PAR activities (%)					0/4	=
3. Fulfilment of PAR objectives (%)					2/4	+2
Total					3/15	-3

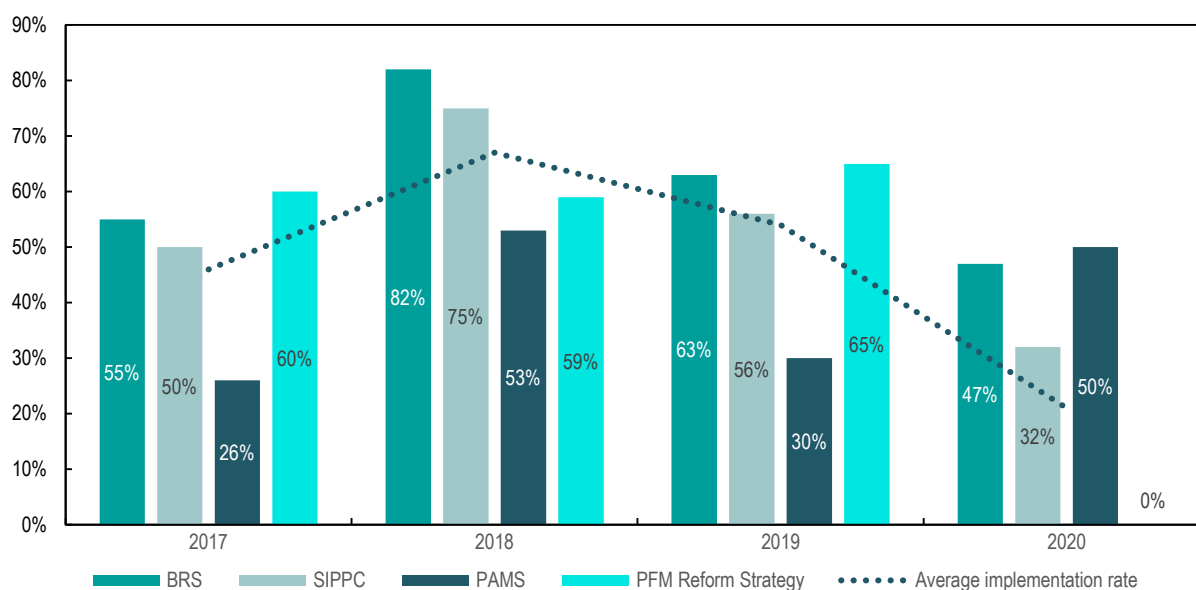
The Government Decision on the MCPAR defines the roles of the various institutions in monitoring and reporting on PAR. However, the system does not function comprehensively. No report on the implementation of the PFM Reform Strategy has been developed for 2020 by the time this assessment was completed¹¹. In addition, while all previous strategic documents were complemented by detailed indicator passports containing descriptions of the key elements of the outcome-level performance indicators, the PAMS Action Plan 2021 includes several indicators that are different from those defined in the original PAMS 2015-2020 and lack further details of data sources and calculation formulae either in the document itself or in a separate indicator passport.

¹¹ The assessment covers the period until 30 June 2021. SIGMA is aware that a report on implementation of the PFM Reform Strategy was prepared in October 2021, but was not able to review its contents due to delayed completion of the report.

The 2020 annual reports for the SIPPC Action Plan 2020-21, the BRS and the PAMS Action Plan 2018-2020¹² all use outcome-level indicators to measure performance. However, the systematic involvement of NGOs in the process of monitoring the implementation of PAR has not been ensured for any of the strategic documents, as reports and monitoring information are not discussed with non-governmental stakeholders. Furthermore, the most recent PAR reports are not publicly available and for the SIPPC and BRS the latest publicly available reports are from 2017.

The overall rate of implementation of PAR activities in 2020 is low at 21%. This is partly due to the absence of an implementation report for 2020 on the PFM Reform Strategy (as a consequence of which all planned activities under that strategy are considered ‘not implemented’¹³), but the rate has also declined for most other strategies compared to previous years.

Figure 1. The implementation rate of PAR activities has been in decline since 2018



Source: Annual reports of PAR strategies.

The achievement of PAR objectives as measured by the attainment of the targets of outcome-level indicators for 2020 is slightly higher than the implementation rate of activities, but still low at 35%. Of the three PAR strategies that monitored implementation in 2020, the achievement of objectives is lowest for the PAMS (28%), which also has the highest number of indicators (36). Given that no report is available on the PFM Reform Strategy, all its 20 indicators with targets for attainment in 2020 are considered ‘not achieved’¹⁴.

Conclusion

A well-functioning monitoring and reporting framework is only partially in place, as the development of annual monitoring reports is inconsistent. The 2020 monitoring report on the PFM Reform Strategy has

¹² All adopted by the MCPAR on 24 May 2021.


¹³ The report shared with SIGMA in October 2021 (more than 3 months after the end of the data collection for this assessment) indicates a 63% implementation rate, but the report does not provide any information on actual achievement of the specific outputs that were planned in the strategy for 2020. Therefore, it is not possible to determine if the information provided is indeed accurate.

¹⁴ The report shared with SIGMA in October 2021 indicates that only 35% of the objectives were achieved in the area of PFM.

not been developed. None of the reports are made publicly available. While outcome-level information is used for monitoring, but the detailed descriptions of outcome-level indicators are not fully in place. Reports are developed without the involvement of CSOs. The overall implementation rate of reform activities and the fulfilment of the reform objectives is low.

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

Overall, the value for the indicator 'Financial sustainability of PAR' is 0. In 2017, the value for this indicator was 1. The difference is due to the absence of the Action Plan of the BRS and the PFM Reform Strategy, meaning most aspects of financial sustainability cannot be assessed. Also, actual budget allocations for activities to be financed from the domestic budget were lower than planned for in the PAR planning documents.

Indicator 1.3.1 - Financial sustainability of PAR		
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.		
Overall 2021 indicator value  since 2017	0	1 2 3 4 5
	Points 2021	Change from 2017
1. Costed PAR activities (%)	0/3	-2
2. Completeness of financial information in PAR planning documents	0/4	-1
3. Actual funding of the PAR agenda	0/3	=
Total	0/10	-3

Given that the Action Plan of the BRS and the PFM Reform Strategy both expired at the end of 2020 and new planning documents are not in place, the quality of costing information in the plans and the share of costed activities cannot be assessed. Both the valid and the expired planning documents, however, provided information on the necessary additional funds required for their implementation, including separate figures for the amounts required from donor funds and national budget resources and the disaggregation of one-off and recurring costs.

The actual funding of PAR, when comparing the cost estimates from the PAR strategies with the amounts foreseen in the annual budget is not consistently ensured. The funding foreseen in the national budget for three of the five most expensive PAR activities to be implemented in 2020 was more than 20% lower than

foreseen in the PAR strategies¹⁵. However, the most expensive donor-funded activities for 2020 were all covered by identifiable corresponding donor plans and projects¹⁶.

Based on the analysis of the two valid action plans, the SIPPC Action Plan 2020-21 and the PAMS Action Plan 2021, the funding of PAR relies heavily on donor support. Of the 25 activities planned for 2021 in the PAMS Action Plan, 17 rely on donor funds, and 23 of the 35 activities planned for 2021 in the SIPPC 2020-2021 Action Plan indicate donor funding needs. In the SIPPC Action Plan, only EUR 20 000 (3%) of the total budget of EUR 630 000 is indicated as being allocated from the state budget.

Conclusion

Due to the absence of some valid planning documents for PAR, the financial sustainability and quality of costing cannot be assessed. The availability of funds is ensured for, but actual budget allocations for activities to be financed from the state budget are less than the funds estimated in the respective PAR plans. Implementation of PAR relies heavily on donor support.

¹⁵ The following five objectives/activities requiring national budget resources were assessed from the PFM Reform Strategy and the PAMS:

- PFM Reform Strategy Priority 3: To expand the revenue base by fighting fiscal evasion and smuggling of goods/development of the IT system for Tax Administration;
- PFM Reform Strategy Priority 10: Enhancement of IT systems operational at the Ministry of Finance to improve the quality of financial information. Activity: integration of IT systems and establishing the disaster recovery system;
- PAMS Objective 2.3. Developing and integrating electronic systems in a progressive manner based on the interoperability framework. Activity 1. Integration of 40 electronic systems through the interoperability platform by 2020;
- PAMS Objective 2.4. Provision of services for citizens by piloting single points of contact. Activity 4. Developing and functionalizing the e-Kosova portal to provide online services for citizens (single points of contact);
- PAMS Objective 1.4. Provision of civil servants' capacity-building training sessions from a central training institution. Activity 3. Preparation and adoption of a new training budget norm and increase of budget for KIPA.

¹⁶ The following three objectives/activities requiring donor funds were assessed from the PAMS and the SIPPC Action Plan 2020-21:

- PAMS: Specific Objective 2.1. A coherent and consistent legal framework for administrative procedures and procedures for public administration services in accordance with the new law, established/Drafting and approving the concept document on first set of laws to be aligned with LGAP [Law on General Administrative Procedures];
- PAMS: Specific Objective 2.2. Established institutional mechanisms and capacities for managing, planning, monitoring, assessing and implementing the public-administrative services/All activities under this objective;
- SIPPC 2020-2021: Specific Objective 1.3 Consolidation of sector strategies framework/All activities under this objective.

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

Overall, the value for the indicator ‘Accountability and co-ordination in PAR’ is 2. This is identical to the value in 2017. The only substantial difference is that administrative-level co-ordination is not established for all strategic documents.

Indicator 1.4.1 - Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative level, and the performance of the leading institution.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Establishment of organisational and managerial accountability for PAR				4/6	=	
2. Co-ordination mechanisms for PAR				2/10	-1	
Total				6/16	-1	

Overall institutional responsibility for PAR is within the mandate of the MIA¹⁷, while the overall PAR co-ordination responsibility at the managerial level is assigned to the Ministry’s Department for Public Administration Reform¹⁸. This department has nine staff members supporting PAR co-ordination. In addition, the Decision on the MCPAR defines the thematic responsibilities for the different PAR areas, assigning co-ordination of the SIPPC and the BRS to the Secretary-General of the OPM (SIPPC & BRS), co-ordination of the PAMS to the Secretary-General of the MIA and co-ordination of the PFM Reform Strategy to the Secretary-General of the Ministry of Finance. Given that the action plan of the BRS has expired, and no valid new document is in place for the PFM area, managerial accountability for the implementation of PAR-related activities cannot be comprehensively assessed. Analysis of the valid planning documents demonstrates that managerial accountability for individual activities is mostly assigned in the case of the PAMS Action Plan 2021 (apart from some activities that are delegated to the Government in general terms). However, several activities in the SIPPC Action Plan 2020-21, are delegated to line ministries, the MoF or even the OPM in general terms only.

The highest political-level co-ordination forum for PAR is the MCPAR. This is chaired by the Minister of Internal Affairs and includes both the Minister of Finance and the political adviser of the Prime Minister as members. Therefore, political-level participation in the co-ordination of PAR is in place. Civil society organisations (CSOs) are not members of the MCPAR and do not participate at its sessions. The Council held one meeting in October 2020 and one in May 2021.

In addition to the MCPAR, there is a separate administrative-level Co-ordination Group for the PFM area. This met twice in both 2020 and 2021. However, similar forums for co-ordinating the implementation of the PAMS, the SIPPC and the BRS either have not been established or are not functional, and CSOs are not involved in co-ordinating the PAR agenda at the administrative level either. As a recent positive

¹⁷ Annex 1, point 5 of the Government Regulation No. 02/2021 on the areas of administrative responsibility of the Office of the Prime Minister and Ministries; Decision No. 01/02 of 16 March 2021.

¹⁸ Article 56 of the Regulation No. 01/2021 on internal organisation and systematisation of jobs in the Ministry of Internal Affairs; PM Decision number 315 of 19 January 2021. Also, Article 4 of the Decision on the organisation and functioning of the council of minister of public administration reform and structures responsible for coordinated, monitored and implemented strategic documents for public administration reform.

development indicating improved internal co-ordination, the administrative-level co-ordinators of the four PAR strategies have started using the same reporting templates for the PAR reports, and a combined executive summary is prepared for all annual reports.

Conclusion

The MCPAR has been established and operates as the co-ordination forum at the political level. Separate co-ordination bodies for the individual PAR strategies at the administrative level are not fully functional. Non-governmental stakeholders are not involved in the established co-ordination structures. Assignment of managerial responsibility for reform activities is incomplete.

Policy Development and Co-ordination

The Principles of Public Administration Policy Development and Co-ordination

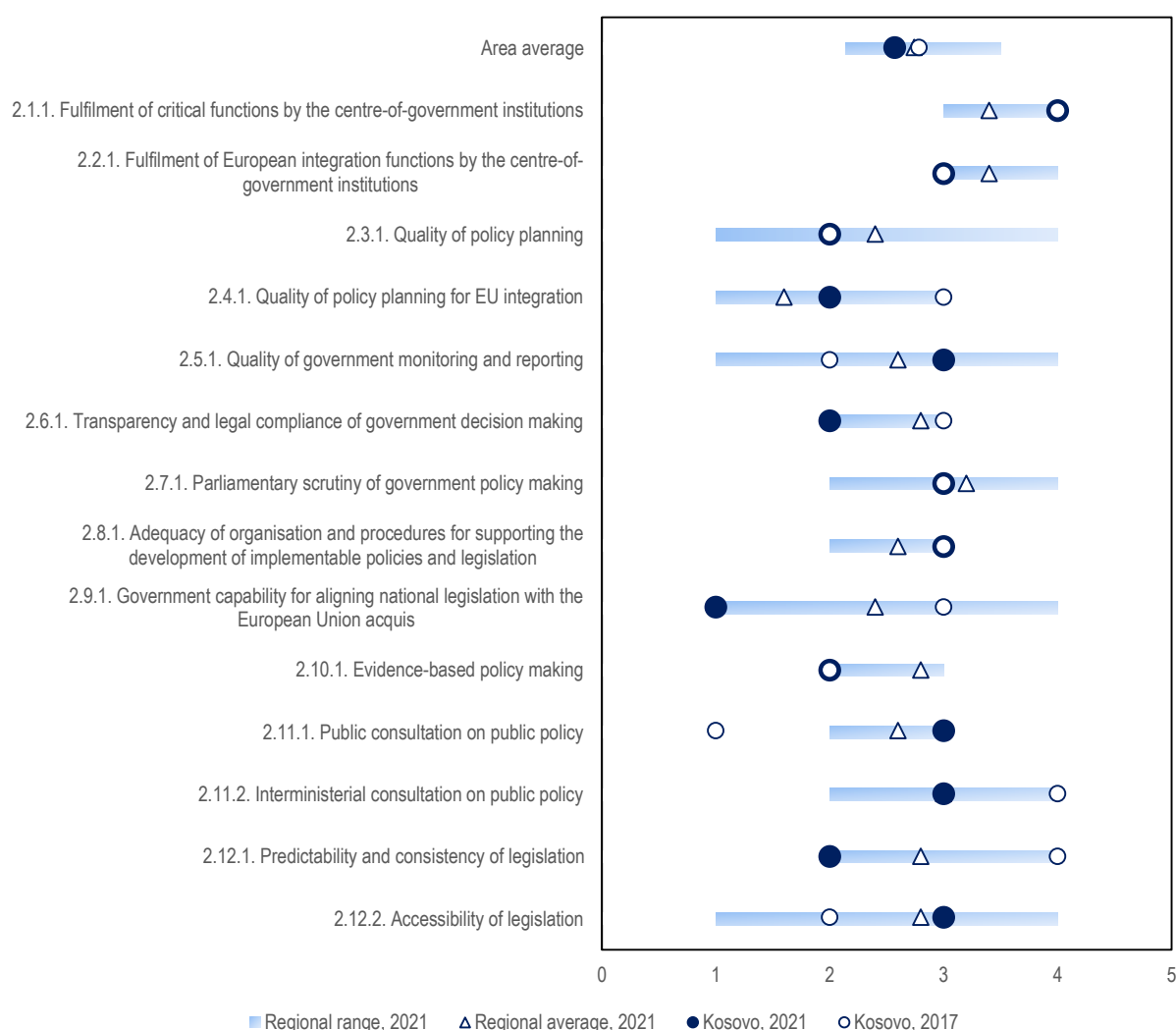
Principle 1	Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.
Principle 2	Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.
Principle 3	Harmonised medium term policy planning is in place, with clear whole of government objectives, and is aligned with the financial circumstances of the government; sector policies meet the government objectives and are consistent with the medium term budgetary framework.
Principle 4	A harmonised medium term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.
Principle 5	Regular monitoring of the government's performance enables public scrutiny and supports the government in achieving its objectives.
Principle 6	Government decisions are prepared in a transparent manner and based on the administration's professional judgement; legal conformity of the decisions is ensured.
Principle 7	The parliament scrutinises government policy making.
Principle 8	The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.
Principle 9	The European integration procedures and institutional set up form an integral part of the policy development process and ensure systematic and timely transposition of the European Union <i>acquis</i> .
Principle 10	The policy making and legal drafting process is evidence based, and impact assessment is consistently used across ministries.
Principle 11	Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government.
Principle 12	Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

Policy Development and Co-ordination

Summary and recommendations

The overall average indicator value for 2021 has decreased compared with the value in 2017 for the policy development and co-ordination area and is below the regional average. The legal and regulatory frameworks and rules of procedure for planning and policy co-ordination are largely in place, but both the implementation and the enforcement of procedures are inadequate. Particular attention is required to improve planning with respect to both domestic and European integration (EI)-related legislation to reduce the number of acts that are carried forward from one year to the next. While parliamentary elections had a negative impact on policy planning in general in 2020, the issues identified by the assessment are to a large extent systemic.

Progress visible in 2017 has not been sustained, and in some cases gains have been reversed



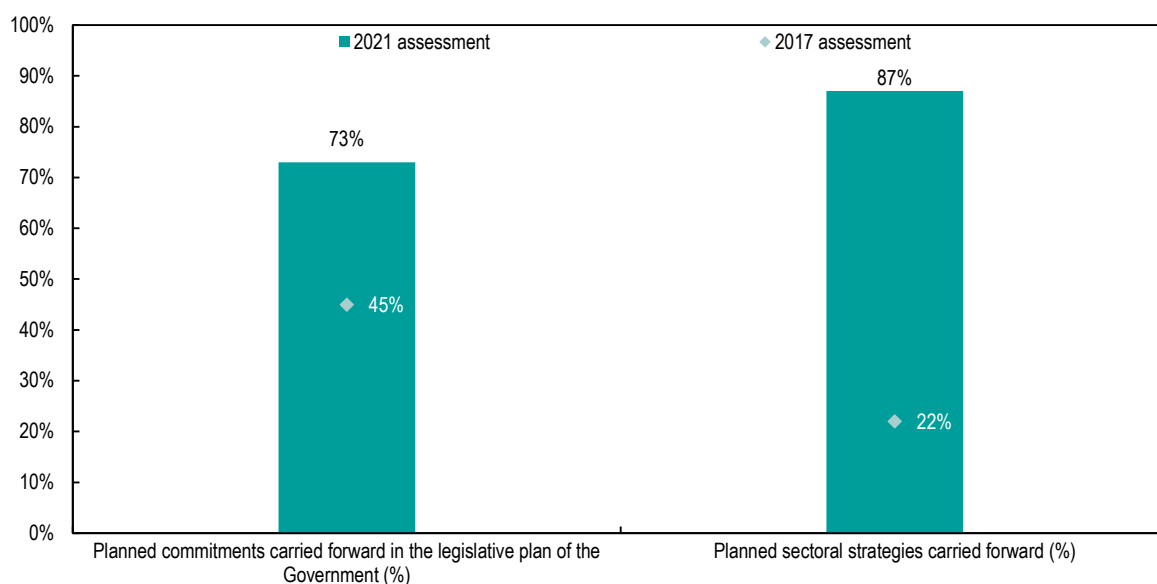
While all key centre-of-government functions for effective policy making are established and supported by detailed regulations and guidelines, **co-ordination arrangements between the centre-of-government (CoG) institutions are not consistently implemented.** The co-ordination around draft laws and

strategies submitted by line ministries should be significantly improved to include not only the concept stage but also all subsequent phases of policy development.

Similarly, while its legislative and institutional set-up is formally established, **the EI process needs to be strengthened through more regular co-ordination meetings at both the senior management level and the political level.** In April 2021, the Government adopted a new Decision on the Establishment of Inter-institutional Co-ordination Structures for the EI process. This will need to be fully implemented to make the system more operational in practice and to bring it up to date with institutional reorganisations.

Strategic planning is hampered by a lack of clarity in the hierarchy of key planning documents and the co-ordination of planning processes. As a result, the number of items included in the Government Annual Work Plan (GAWP) exceeds the Government's implementation capacity. The number of draft laws and strategies carried forward to the next year significantly increased compared to 2017, which suggests that government planning is overambitious. With respect to EI, the planning process also seems unrealistic, with the implementation rate of the National Programme for the Implementation of the Stabilisation and Association Agreement (NPISAA) at 21% for 2020. Alignment between sectoral strategies and other key strategy documents appears to be particularly weak, which increases the risk of duplication and waste in the allocation of resources across sectors.

Government policy planning appears unrealistic and hampered by poor co-ordination



Source: Legislative Programme 2020 and 2021, Strategic Documents Plan for 2020-2022 and for 2021-23. Data on 2017 is taken from the SIGMA Monitoring Report 2017.

Government transparency is also not sufficient and the monitoring of the Government's work remains a challenge. Agendas for government sessions are not made public in advance, and decisions are not consistently published online. The Government prepares a document summarising its main achievements but no detailed report, which prevents effective public scrutiny of the Government's work.

Adequate parliamentary scrutiny of government policy making is formally ensured, but in practice the Assembly very rarely discusses the Government's implementation of laws and policies. Parliament's ability to monitor the work of the Government is also limited by the high proportion of Government-sponsored bills that use extraordinary procedures. In 2020, 41% of draft laws submitted by the Government were adopted in extraordinary proceedings, compared to 19% in 2016. A fundamental problem is that there is no regular co-ordination between the Government and Parliament, and the Government does not consistently review bills initiated by Parliament, which may lead to inconsistencies between policies.

The policy-making process is evidence-based, in theory at least, as legislation and rules of procedure (RoP) require that impact assessments be used consistently by all ministries, and guidelines and manuals

are provided. However, while they are generally used for draft laws, **impact assessments are not used for secondary legislation or for strategies. This means that an important block of policy development takes place without impact assessment.** Quality control needs to be more rigorously applied by the Office of the Prime Minister (OPM) to ensure, among other things, that the results of the analytical process are taken into account when draft laws are being developed.

Regulations and procedures for conducting public consultations are in place, and the regularity in publishing draft laws for written public consultation has improved. However, rules are not followed consistently in practice. The consultations are also still organised very late in the process without key stakeholders being aware that a consultation process is planned.

The publication of legislation has improved since 2017, as all primary and secondary legislation is now available online (though not yet in consolidated format, the consolidation process started only recently and is ongoing). Nevertheless, data from the Balkan Barometer suggests that businesses do not see an improvement. **The perception that legislation affecting businesses is available to them has dropped by almost half since 2017, as shown in the chart below, and is now extremely low, as is the confidence of businesses in the stability of government policy making.**

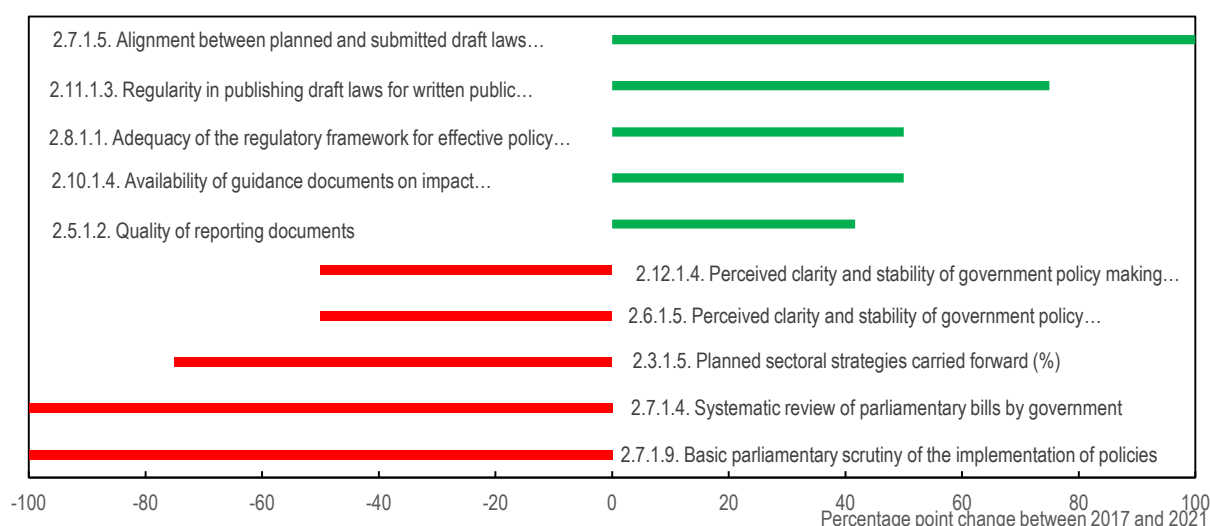
Short-term recommendations (1-2 years)

- 1) The Government should address the issue of overambitious plans in order to reduce carry over. Central co-ordination of legislative planning should be strengthened, including the preparation of EI activities, and political co-ordination forums used actively.
- 2) The Government should take steps to establish an integrated planning system, starting with a revision of the strategic planning framework.
- 3) The agendas of government sessions should be published online in advance and all decisions made by the Government should be available online.
- 4) The Government should amend the existing legislation to require that reports on the implementation of all key planning documents are published online, and ensure this requirement is actually implemented.
- 5) The Government should take steps to strengthen regulatory impact assessment (RIA) and enforce the central quality control more consistently. The OPM should ensure the review of draft laws, together with the accompanying concept documents, to ensure that the analysis effectively supports the legislative proposals. The OPM should also implement the existing requirements for analysis with respect to secondary legislation.
- 6) The Government should strengthen central oversight to ensure consistent implementation of the existing rules on public consultation. The OPM should ensure adequate discussion on substantial issues among all line ministries and agencies affected by a particular proposal.
- 7) The Government should explore why business confidence in its legislative process has fallen so dramatically. The Government should take steps to ensure that the transitional period before new laws take full effect is sufficient for the adoption of the necessary supporting by-laws, to promote full and consistent implementation and increase legal clarity.

Medium-term recommendations (3-5 years)

- 8) The role of the Assembly in monitoring progress made by the Government should be strengthened. The Assembly should start scrutinising the implementation of government policies by requesting that the Government prepare reports on the implementation of key reforms.
- 9) A more structured system of co-ordination between the Assembly and the Government should be developed, including more systematic government review of draft bills brought by the Assembly and mechanisms to reduce the use of extraordinary procedures.

The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. Progress in the regulatory framework and basic processes, however, public perceptions have worsened, the backlog of sector strategies increased and parliamentary scrutiny has been reduced



policy proposals with government priorities²⁹ and monitoring the Government's performance³⁰. The co-ordination of government communication activities is the responsibility of the Division for Communication and Information of the OPM³¹. The MoF oversees public sector resource planning and is in charge of ensuring the affordability of policies³².

Guidelines and detailed regulations support policy development and monitoring processes. The RoP requires the GSS to issue guidelines for preparing the GAWP and requires the LO to issue guidelines for preparing the legislative plan³³. For the 2021-23 GAWP, the GSS prepared and provided the Integrated Guidelines for Drafting GAWP with Appendices to the ministries in October 2020. Guidance on the annual GAWP report is provided by the Manual on Drafting the Annual Government Work Report, which was issued by the Secretary-General of the OPM in 2011. There are also Guidelines on Monitoring Implementation of Government Decisions, issued by the Secretary-General of the OPM in 2011, which require quarterly reporting. In practice, the monitoring is organised through the ZKM Report Management System, which provides automated guidance to line ministries. Guidelines are also available to line ministries on drafting legal acts³⁴, developing policy proposals³⁵ and carrying out public consultations³⁶. In 2018, the guidance on strategic planning was enhanced with a new administrative instruction and practical manual on developing and monitoring sector strategies³⁷.

The co-ordination of the GAWP preparation is established by the RoP³⁸ and also ensured in practice, as the OPM routinely provides line ministries with consolidated comments of the OPM departments and the MoF on their GAWP proposals³⁹. However, co-ordination among CoG bodies of line ministries' policy proposals is less efficient. According to the GSS of the OPM, line ministries should consistently receive consolidated comments of the OPM departments on their draft laws and strategies, but the GSS was not able to provide any such examples or other evidence. There was only evidence about consolidated comments on concept documents.

Conclusion

All key CoG functions for effective policy making are established and supported by detailed regulations and guidelines. However, co-ordination arrangements between the CoG institutions that should ensure the coherence and affordability of government policies are not consistently implemented in practice, as there is no co-ordination on draft laws and strategies submitted by line ministries.

²⁹ RoP, No. 09/2011, Article 3, subsection 1.15; Regulation (OPM) No. 01/2020, Article 13.

³⁰ Regulation (OPM) No. 01/2020, Article 15.

³¹ *Idem*, Article 60.

³² RoP, Article 7.

³³ *Idem*, Articles 47-49.

³⁴ Administrative Instruction No. 03/2013 on Standards for the Drafting of Normative Acts.

³⁵ Guidelines and Manual for Developing Concept Documents and Administrative Instruction No. 03/2015 on Budget Impact Assessment for New Government Initiatives.

³⁶ Regulation (GRK) No. 05/2016 on Minimum Standards for the Public Consultation Process.

³⁷ Administrative Instruction (GRK) No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans and the Manual for Planning, Developing and Monitoring Strategic Documents and Their Action Plans.

³⁸ RoP, Article 48.

³⁹ An example of consolidated comments from different OPM departments and the MoF on the GAWP proposal of the Ministry of Interior was submitted for review.

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

Overall, the value for the indicator ‘Fulfilment of European integration functions by the centre-of-government institutions’ is 3. Even though the Ministry of European Integration (MEI) was abolished in 2020, the key EI functions remain established and assigned to CoG bodies. However, guidance is not yet available to ministries on all aspects of EI, and the existing co-ordination structure for EI is still not fully operational in practice.

Indicator 2.2.1 - Fulfilment of European integration functions by the centre-of-government institutions

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

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

Overall 2021 indicator value

0	1	2	3	4	5
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	Points 2021	Change from 2017
1. Proportion of the EI functions that are assigned to the CoG institutions by law	5/6	=
2. Availability of guidelines to line ministries and other government bodies	2/4	=
3. Government’s capacity for co-ordination of EI	4/8*	-2
Total	11/18	-2

Note: *Data not available or provided.

Since the dissolution of the MEI in the middle of 2020, the OPM’s Office for Co-ordination of the Stabilisation and Association Process (OCSAP) has become the key institution for co-ordinating the EI process. The OCSAP is responsible for overall daily co-ordination of EI and for monitoring its progress⁴⁰. It is also assigned with EI planning, including the costing of reforms, where it is assisted by the MoF⁴¹. The LO of the OPM is tasked with co-ordinating the alignment of national legislation with the European Union (EU) *acquis*. The Development Co-operation Office of the OPM is assigned with co-ordinating planning and overall monitoring of EU assistance⁴². The only EI co-ordination function currently not assigned is that of accession negotiations co-ordination, as Kosovo is not yet an EU candidate.

Guidelines on the alignment of national legislation with the *acquis*⁴³ and on translation of the *acquis* are in place⁴⁴. However, all procedural information still refers to the MEI as the key institution, as the guidelines predate its dissolution. Guidelines for providing inputs to the planning and monitoring of EU assistance

⁴⁰ Regulation (OPM) No. 01/2020, Article 27. The responsibility to co-ordinate the stabilisation and association process is in some specific areas assigned also to some other departments of the OPM (e.g. the Office for Political Criteria and the Office for Economic Criteria and the Internal Market).

⁴¹ *Idem*, Article 27; Guide to Reviewing the National Program for the Implementation of the Stabilisation and Association Agreement (NPISAA) Cycle for 2021.

⁴² Regulation (OPM) No. 01/2020, Article 41/1.

⁴³ Practical Guidelines for Legal Approximation of the Legislation of the Republic of Kosovo with the Legislation of the European Union (2014).

⁴⁴ Regulation (GRK) No. 02/2015 on the Process of Translation of the EU *Acquis* into the Official languages of the Republic of Kosovo.

are not available, and there are also no guidelines on how to participate in, manage and co-ordinate EI-related negotiations, as Kosovo is not yet in the membership-negotiation phase.

In April 2021, the Government adopted a new Decision on the Establishment of Inter-institutional Co-ordination Structures for the European Integration process⁴⁵. The co-ordination structure remains threefold as before. At the top political level there is a Ministerial Council for European Integration (MCEI), which includes the Prime Minister, the Deputy Prime Minister (in charge of EI), and five ministers⁴⁶. The Working Committee for European Integration (WCEI) remains the top administrative-level co-ordination forum at the level of general secretaries of ministries and directors of the OPM departments⁴⁷. The WCEI is assisted by seven Sector Working Groups for European Integration (SWG EI), replacing the former seven Executive Committees for European Integration and with directors of ministerial departments as members⁴⁸. All three structures are expected to hold their meetings at least once every three months⁴⁹.

Judging by the infrequency of their meetings, the structures are still not functioning effectively. The MCEI held no meetings in 2019 and only one meeting in 2020; the WCEI did not meet in 2019 or 2020 at all; and the seven executive committees together held only ten meetings in 2019 and six meetings in 2020. Each committee had one to two meetings per year, except the Executive Committee for European Integration on Governance, which did not meet in 2019 or 2020.

Development of the NPISAA as the main Kosovo EI plan is a well-regulated process. Prior to launching the process, a guideline on the revision of the plan is routinely prepared and disseminated to the ministries and other relevant institutions. The plan is in principle updated annually, but, due to delays caused by parliamentary elections and the formation of a new government, at the time of the SIGMA review the 2021 plan had not yet been adopted by either the Government or Parliament. A monitoring report tracking EI progress is also compiled on an annual basis⁵⁰.

The RoP requires that all draft legislation submitted to the Government for adoption be checked for compliance with the *acquis*⁵¹. According to the EU Law Division of the LO of the OPM, which is responsible for issuing opinions on compliance, such opinions are consistently provided. However, this could not be verified, because the LO failed to submit the right sample for SIGMA review.

Conclusion

The legislative and institutional set-up for the EI process is formally established. Development of the national EI plan is centrally co-ordinated and plans are updated annually. The main problem of non-functioning and infrequent meetings of EI co-ordination forums, despite them being established both at the political and top administrative levels, still remains.

⁴⁵ Decision No. 03/06 on The Establishment of Inter-Institutional Co-ordination Structures for the European Integration Process, adopted on 13 April 2021.

⁴⁶ *Idem*, Article 2.

⁴⁷ *Idem*, Article 3.

⁴⁸ *Idem*, Article 4.

⁴⁹ *Idem*, Articles 2/7, 3/7 and 4/8.

⁵⁰ Monitoring reports for 2019 and 2020 were submitted for SIGMA review.

⁵¹ RoP, Article 36/6, and Regulation (OPM) No. 01/2020, Articles 2 and 16.

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

Overall, the value for the indicator 'Quality of policy planning' is 2. The regulatory framework for mid-term planning has slightly improved with the adoption of the Administrative Instruction on Planning and Drafting Strategic Documents and Action Plans. Nevertheless, the total points allocated decreased due to the rise in the number of planned commitments carried forward in the Government's legislative plan and the annual strategic documents plan. Major shortcomings and deficits with the quality of planning documents continue to exist, and sectoral strategies are still not aligned with the Medium-Term Expenditure Framework (MTEF)⁵².

Indicator 2.3.1 - Quality of policy planning						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
Overall 2021 indicator value	0	1	2	3	4	5
			Points 2021		Change from 2017	
1. Adequacy of the legal framework for policy planning			5/7		=	
2. Availability of guidance to line ministries during the policy-planning process			2/4*		-2	
3. Alignment between central policy-planning documents			0/6*		-2	
4. Planned commitments carried forward in the legislative plan (%)			0/4		-1	
5. Planned sectoral strategies carried forward (%)			0/4		-3	
6. Presence of minimum content in sector strategies			4/6		new ⁵³	
7. Completeness of financial estimates in sector strategies			4/5		+2	
8. Alignment between planned costs in sector policy plans and medium-term budget			0/3		=	
Total			15/39		-2	

Note: *Data not available or provided.

The regulatory framework for mid-term policy planning is still not comprehensively established as there is no official decision or regulation yet in place that would clearly and systematically define the architecture (in terms of status and hierarchy) of the key planning documents.

In terms of structures, the hierarchy of planning documents has, from 2018 onwards, been only partially and indirectly set by the Administrative Instruction on Planning and Drafting Strategic Documents and Action Plans. This establishes that strategic documents must comply with government priorities, comprehensive development strategies such as the National Development Strategy, the MTEF, the Economic Reform Programme, and the NPISAA, as well as other relevant planning documents for EU accession⁵⁴. The RoP further states that the MTEF, the Budget and the GAWP should be based on the Government's Annual Statement of Priorities⁵⁵.

⁵² 'Medium-term expenditure framework' is the formal title used in Kosovo for the medium-term budgetary framework.

⁵³ New sub-indicator. Not part of 2017 assessment.

⁵⁴ Administrative Instruction (GRK) No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans, Article 4.

⁵⁵ RoP, Article 46.

The main problem lies with the implementation of the framework in practice. The policy planning framework in place continues to be quite diversified, and hence demanding, in terms of planning and updating policy, leaving insufficient resources for policy implementation. Besides the MTEF, the GAWP and the Budget, the RoP also envisages the EI-related plan and the legislative plan as a separate annex to the GAWP, containing all legislative commitments of the Government. In addition, there are two mid-term planning documents in force, the status of which is not regulated by the existing legislation: the National Development Strategy (NDS) 2016-2021 (the NDS 2022-2030 is already being prepared) and the Economic Reform Programme, a 3-year economic growth support plan, updated annually.

The CoG bodies in charge of policy planning are the OPM and the MoF. The SPO of the OPM is responsible for the preparation of the Annual Statement of Priorities, the GAWP (from November 2020, when this responsibility was transferred from the former Government Co-ordination Secretariat) and the NDS⁵⁶. The LO of the OPM co-ordinates the preparation of the annual legislative plan⁵⁷, and, following the dissolution of the MEI, the OCSAP oversees the development of the EI plan⁵⁸. The MoF leads the preparation of the MTEF and the annual budget⁵⁹.

The legislative framework establishes the steps of the planning process⁶⁰, and the practical guidance is in most cases also available to line ministries, either through official instructions or through feedback comments. For the 2021 GAWP, the OPM disseminated the Integrated Guidelines for Drafting the GAWP with Appendices in October 2020. For annual reporting on the GAWP, the ministries use the Manual on Drafting the Annual Government Work Report, but there is also automated guidance in place via the ZKM Report Management System. According to the Law on Public Financial Management and Accountability, the preparation of the MTEF and the Budget should be guided by the budget circulars issued by the MoF. The MoF also organises the budget hearings with ministries and other budgetary users, where it comments on and discusses their budget proposals⁶¹. Since 2018, planning of sectoral strategies has been comprehensively guided by the Administrative Instruction on Planning and Drafting Strategic Documents and Action Plans and its corresponding manual.

Activities planned in the GAWP continue to exceed the Government's implementation capacity. 73% of the 2020 GAWP legislative commitments (77 out of 105 in total) were carried forward to the 2021 plan (compared to 45% carried forward from the 2016 plan). The number of sectoral strategies carried forward has also increased. The annual plan for 2020 included 16 strategies, and 14 (87%) of them were also included in the 2021 plan (compared to 22% carried forward from the 2016 plan).

Table 1. Government legislative commitments and planned sectoral strategies carried forward

	2017 assessment	2021 assessment
Planned commitments carried forward in the legislative plan of the Government (%)	45%	73%
Planned sectoral strategies carried forward (%)	22%	87%

⁵⁶ Regulation (OPM) No. 01/2020, Article 13.

⁵⁷ *Idem*, Article 8.

⁵⁸ *Idem*, Article 27.

⁵⁹ Law 03/L-048 on Public Financial Management and Accountability, Articles 20-22.

⁶⁰ RoP, Articles 47-49; Administrative Instruction (GRK) No. 07/2018 and Law 03/L-048 on Public Financial Management and Accountability, Articles 20-22.

⁶¹ According to the MoF, both budget circulars and budget hearings are a standard practice, but there was no evidence provided for the 2021 MTEF and the 2021 Annual Budget that would enable SIGMA to confirm the practice.

Source: Legislative Programme 2020 and 2021, Strategic Documents Plan for 2020-2022 and for 2021-23. Data on 2017 is taken from the SIGMA Monitoring Report 2017.

The alignment between the 2021 GAWP and the MTEF could not be analysed because the 2021 GAWP was not made available for review. For this reason, it was also not possible to determine whether the GAWP contained outcome indicators for measuring the achievement of the Government's priorities. However, the analysis showed that no outcome indicator was set for any of the 53 MTEF priorities, which makes it virtually impossible to monitor actual progress or efficiency of public spending.

Alignment of sectoral strategies with the GAWP continues to be drastically weak and remains close to 0%, as was the case in 2017⁶². As for the content of sectoral strategies, analysis of the five most recently adopted sectoral strategies indicates that quality continues to vary, as the strategies often do not sufficiently justify the need for intervention and also often do not enable monitoring of actual progress achieved, due to missing outcome indicators and/or their target values⁶³. On a more positive side, the financial estimates are appropriate in most cases, and they are usually consistent in setting up reporting requirements⁶⁴. The problem, however, is that the costs foreseen by the sample strategies are not reflected in the MTEF – the analysis found their alignment to be 0%⁶⁵ – creating the risk that adequate funding for the activities planned will not be available.

Conclusion

The strategic planning set-up in place is fragmented, as the status and hierarchy of government central planning documents are still not defined comprehensively. Guidance on planning is available to line ministries, but the actual quality of planning continues to be a challenge. Also, the government annual planning remains overambitious and the number of draft laws and strategies carried forward to the next year significantly increased compared to 2017 and is now worryingly high.

⁶² In 2020, no sectoral strategy was approved. As there was also none adopted in 2019, a sample of five strategies adopted in 2018 was analysed. They were compared with the 2019 GAWP. Two strategies each planned one law for 2019, and both laws were included in the GAWP. Two strategies did not plan any laws. The fifth strategy (the State Strategy and Action Plan against Organized Crime, 2018-2022) planned 15 laws but did not set a specific deadline for any of them. All these 15 laws were therefore considered non-aligned with the GAWP due to poor planning practice. The sample included the Strategy on Children's Rights, the Strategy for Co-operation with Civil Society, the Strategy for Local Economic Development 2019-2023, the National Strategy against Narcotics 2018-2022 and the State Strategy against Organized Crime 2018-2022.


⁶³ While all five strategies identified their policy objectives, the problem analysis justifying the interventions was sufficient in only one of the five cases; only three included outcome-level indicators for all of their objectives, and only two strategies had target values set for at least 90% of their outcome-level indicators.

⁶⁴ All five strategies included the information on additional spending needs for all of their activities, and three of them also identified sources of funding for all costed activities. However, full costing, including estimates for activities already covered by the budget, was not done for any strategy. Four of the strategies included monitoring, reporting and evaluation requirements.

⁶⁵ Together, all five sample strategies included seven objectives/activities that were to be funded by the Budget and that had sufficiently high costs as to be included in the MTEF. None of them was matched in the MTEF.

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

Overall, the value for the indicator ‘Quality of policy planning for European integration’ is 2. There were no major changes in the legislative framework or the quality of the national EI plan, but a very low implementation rate of the EI plan remains a problem and has even decreased compared to 2017.

Indicator 2.4.1 - Quality of policy planning for European integration						
This indicator analyses the legislative set-up established for policy planning of the European integration (EI) process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI related commitments.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
	Points 2021	Change from 2017				
1. Adequacy of the legislative framework for harmonised planning of EI	2/2	=				
2. Quality of planning documents for EI	4/6*	=				
3. EI-related commitments carried forward (%)	0/4*	-3				
4. Implementation rate of the government’s plans for EI related legislative commitments (%)	0/4	=				
Total	6/16	-3				

Note: *Data not available or provided.

According to the current regulatory framework, the NPISAA is the main central planning document for EU integration processes in Kosovo⁶⁶. Government Decision No. 06/22 sets out the structure of the plan (in terms of chapters) and the authorities responsible for its development. However, the decision is outdated because it refers to the MEI as the key planning institution. The MEI was dissolved in the middle of 2020, and its planning and co-ordination role was taken over by the OCSAP of the OPM⁶⁷.

In October 2020, the Government also approved its Priorities for the Second Phase of Implementation of the European Reform Agenda (ERA 2), which contains 15 EI-related priorities broken down into 58 legislative and non-legislative activities for 2021 and 2022 and should assist in implementation of the Stabilisation and Association Agreement.

The preparation of the NPISAA is, in principle, a well-organised process. The preparation of the NPISAA is supported by guidelines and well-co-ordinated by the OCSAP, but the plan has not yet been adopted (partially due to the political instability caused by the parliamentary elections)⁶⁸.

⁶⁶ Government Decision No. 06/22 from 3 April 2015.

⁶⁷ Regulation (OPM) No. 01/2020, Article 27.

⁶⁸ For the 2021 plan, the OCSAP, like the MEI in previous years, prepared and distributed the Guide for Reviewing the NPISAA in October 2020. The guide defined and described the process of the review, institutional responsibilities and steps to be followed at all stages of the review. It also contained instructions on costing and budgeting of the plan and the review calendar. The calendar planned that the process would last from October 2020 to January 2021, with four main phases: 1) drafting short-term measures (including their budgeting and costing) and updating the part narrative; 2) harmonization with the Government Work Plan and other Government documents; 3) consultations with the European Commission; 4) approval of the revised NPISAA. According to the OCSAP, the process set was closely followed in practice. The ministries were each given a month for drafting their parts of the plan, and by the end of

At the time of the SIGMA review, the 2021 plan had not yet been adopted. Therefore, its compliance with the 2021 GAWP could not be established, although the OCSAP reported that the draft prepared was 90% aligned with the GAWP. For the same reason, the rate of activities carried forward from the 2020 plan could not be established, but the implementation rate of planned draft laws remains worryingly low and has even decreased from 2016. Only 21% of the draft laws from the 2020 plan have been adopted by the Government in time, compared to 29% in 2016⁶⁹. In absolute numbers, the drop in effectiveness is even more dramatic: while in 2016 the Government managed to adopt 26 of the 90 planned draft laws, in 2020 it managed to approve only 8 of the planned 38 draft laws. No doubt an important reason for the poor implementation lies in the two changes of government in 2020, but according to the OCSAP it is also due to continuing weak implementation co-ordination, restructures within the line ministries and the fact that the EI process is not a sufficiently high priority for the Government.

Table 2. Implementation rate of the National Programme for Implementation of the Stabilisation and Association Agreement

	2017	2018	2019	2020	2021
Implementation rate of the Government's plans for EI-related legislative commitments (%)	29%	28%	51%	13%	21%

Source: Report on the Implementation of the National Programme for Implementation of the Stabilisation and Association Agreement during 2020. Data for 2017 is taken from the SIGMA Monitoring Report 2017.

On the other hand, the planning has nevertheless improved and seems more realistic, as the volume of planned activities is no longer as high as it was in 2016. The plan for 2016, for example, envisaged as many as 220 regulations, of which 40% remained unrealised⁷⁰, while in 2020 only 73 regulations were planned for adoption. The total volume of all measures, including the implementation ones, also became smaller and hence more manageable in theory: in 2016 the plan had more than 600 individual measures in total, while the 2020 plan included 195 measures only.

The 2020 plan set clear deadlines for all activities planned and indicated costing and sources of funding for 91% of implementation commitments (compared to 100% in the 2016 plan).

Conclusion

The regulatory framework for planning the EI process is in place, but clearly does not work effectively in practice, as the implementation rate of the NPISAA remains worryingly low and has even dropped from 28% in 2017 to 21% in 2020. The quality of the NPISAA itself dropped as well, as compared to 2017; in 2020 it was no longer fully costed and indicating sources of funding.


November 2020 a consolidated draft had been prepared by the OCSAP that was then consulted inter-institutionally and commented on by the OCSAP. However, parliamentary elections and the appointment of the new government delayed the final stage of the process – the approval of the plan, as it was decided that the plan shall be approved by the new government.

⁶⁹ OECD (2017), *Monitoring Report: Kosovo*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>, p. 32.

⁷⁰ *Idem*, p. 43.

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

Overall, the value for the indicator 'Quality of government monitoring and reporting' is 3. The legal framework has improved and now requires regular reporting on sector strategies and the EI plan, but reports on most of the key planning documents are still not required and are also not publicly available. There has been an improvement in the quality of sector strategy reports, as they now regularly include information on the achievement of planned outcomes and outputs, but the Government still does not prepare a comprehensive annual report on the GAWP.

Indicator 2.5.1 - Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the legislative framework for monitoring and reporting				5/8	+2	
2. Quality of reporting documents				7/12	+5	
3. Public availability of government reports				2/5	-1	
Total				14/25	+6	

The legal framework establishes regular monitoring and reporting on the implementation of the Budget⁷¹, the GAWP⁷², the legislative plan⁷³, sector strategies⁷⁴ and the EI plan⁷⁵. The requirements about monitoring and reporting on sector strategies were enhanced in 2018 with the adoption of Administrative Instruction No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans, which has successfully unified the reporting process for all sector strategies and introduced an annual reporting obligation⁷⁶.

Reports on the Budget must be presented to the Government and subsequently to Parliament both quarterly and on an annual basis. The reports on the GAWP are to be examined on a quarterly basis⁷⁷. According to the GSS, the ministries report regularly on a quarterly basis, but frequently the information provided is not sufficiently comprehensive. In such cases, the GSS requires additional information. The draft report with information on implementation across all ministries is then discussed at the meeting of general secretaries. The problem reported, however, was that the Government is not informed about these reports. According to the GSS, the reports are as a rule not placed on the agendas of government sessions and therefore also not discussed, which calls into question the overall relevance of monitoring. Hence,

⁷¹ Law No. 03/L-048 on Public Financial Management and Accountability, Article 45 on Quarterly Budget Reports and Article 46 on Final Report on the Budget.

⁷² RoP, Article 48.

⁷³ *Idem*, Article 48, paragraph 4, and Regulation (OPM) No. 01/2020, Article 8, paragraph 2.2.

⁷⁴ Administrative Instruction (GRK) No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans, Article 16.

⁷⁵ Guide for Regular Reporting on the Implementation of the National Programme for the Implementation of the Stabilization and Association Agreement (NPISAA) 2020-2024.

⁷⁶ Administrative Instruction (GRK) No. 07/2018, Article 16/5.

⁷⁷ RoP, Article 48.

despite implementation challenges with the GAWP, the quarterly reports were never discussed at the political level to enable ministers to identify corrective measures.

The requirement to make reports publicly available is in place only for sector strategy reports⁷⁸. Although the requirement had already been introduced in 2018, analysis of the last five sector strategy reports indicates that it is still not consistently followed in practice, as only one of the five sample reports had so far been made public⁷⁹. There is no similar requirement for reports on the GAWP, the Legislative Plan, the EI plan or the Budget. The annual report on the implementation of the state budget is nevertheless published, as is the report on the EI plan. The reports on the GAWP and the Legislative Plan are not published online.

The quality of reporting documents continues to vary. The RoP establishes that the Government should publish an annual report on its achievements in the previous year⁸⁰. However, the published Labour Report of the Government of the Republic of Kosovo (June-December 2020) only lists main achievements; there is no reference to or comparison with the GAWP and its planned outputs and outcomes. Such a report does not fulfil the function of a report on the GAWP and, above all, does not give the Government or the public an insight into the implementation efficiency of the Government, i.e. how much it follows its plans and keeps its promises.

On the other hand, the annual report on the implementation of the NPISAA offers a more comprehensive overview, as both the 2019 and 2020 reports included comparative information on outputs achieved. The quality of reports on sector strategies improved compared to the 2017 assessment, as all five sample reports contained information on progress made in terms of planned outputs and outcomes. (Only two out of five strategies fulfilled this criterion at the 2017 assessment.)

Conclusion

The monitoring of government work remains a challenge, even if the legislation has improved and regular reporting is now required for all key planning documents. There are regular reports on the NPISAA, the Budget and sector strategies, but not on the GAWP, as the Government only prepares a summary document on its main achievements. However, reporting on sector strategies has improved, as the reports now include information on progress made. The problem is, however, that with the exception of sector strategy reports, the reports still do not need to be published, which effectively prevents public scrutiny of the Government's work.


⁷⁸ *Idem*, Article 16/4.

⁷⁹ The sample included the Youth Employment Action Plan Implementation Report 2019, the Sectoral Strategy of the Ministry of Labour and Social Welfare Implementation Report for 2019, the Implementation Report of the Public Administration Reform for 2019, the Implementation Annual Report for 2019 on the Public Finance Management Reform Strategy 2016-2020, the Implementation Report for 2019 on the Strategy for Improving Policy Planning and Co-ordination in Kosovo, and the Implementation Report for 2019 on the Public Administration Modernisation Strategy 2015-2020. So far, only the 2019 report on the Public Finance Management Reform Strategy was made public so far: <https://mf.rks-gov.net/page.aspx?id=2.117>.

⁸⁰ RoP, Article 74.

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

Overall, the value for the indicator 'Transparency and legal compliance of government decision making' is 2. The legal framework for government session procedures remains adequate, and the timeliness of ministries' submission of regular agenda items for government sessions has slightly improved. However, the total value has decreased due to a reduction in the consistency with which CoG bodies enforce the required quality checks and a decrease in business confidence in the stability and predictability of legislation, as demonstrated by the Balkan Barometer.

Indicator 2.6.1 - Transparency and legal compliance of government decision making						
This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision making, and businesses' perception of the clarity and stability of government policy making.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021		Change from 2017	
1. Adequacy of the legislative framework for government session procedures			5/5		=	
2. Consistency of the CoG in setting and enforcing the procedures			0/4		-2	
3. Timeliness of ministries' submission of regular agenda items to the government session (%)			2/3		+1	
4. Openness of the government decision-making process			2/4		-1	
5. Perceived clarity and stability of government policy making by businesses (%)			0/4		-2	
Total			9/20		-4	

The RoP establishes clear rules and procedures for the preparation, follow-up and communication of government sessions⁸¹. The Government Secretariat has the authority to ensure the coherence of policy proposals with government priorities and policies⁸². In practice, this function has been carried out by the SPO of the OPM since November 2020⁸³, when the function was transferred from the former Government Co-ordination Secretariat, also responsible for checking the quality of policy proposal impact assessments⁸⁴. According to the SPO, however, its review of impact assessments prepared by the ministries (i.e. concept documents) is not yet fully operational. As a result, not all concept documents submitted to the Government currently undergo quality control. The GSS of the OPM has a mandate to ensure compliance with the set standards of policy development⁸⁵; the LO of the OPM is responsible for legal scrutiny and is authorised to comment on all legal drafts before they are submitted for the government session⁸⁶; and the MoF is responsible for checking the fiscal impact assessments⁸⁷. If policy proposals are not prepared in accordance with the standards set by the RoP, the Government Secretariat has the

⁸¹ The rules and procedures in question are established by the RoP, Articles 6-11 (for preparation of material, deliberation and agenda setting of government sessions beforehand), Articles 34-35 (review and submission of the material), Article 42 (Legal Office responsibilities) and Articles 46-47 (the GAWP and follow-up).

⁸² RoP, Article 35.

⁸³ *Ibid.*

⁸⁴ Regulation (OPM) No. 01/2020, Article 13/2.9.

⁸⁵ *Idem*, Articles 17/2 and 18/1.

⁸⁶ RoP, Articles 35 and 42.

⁸⁷ RoP, Article 35.

power to return them to the proposing body with instructions on how and by when they need to be corrected⁸⁸. However, the analysis of the sample of five draft laws⁸⁹ indicates that the consistency of the CoG bodies in enforcing the procedures is rather weak. Of the five draft laws that were assessed, LO opinion on legal conformity was made available for review in one case only⁹⁰. Evidence that the GSS checked if the dossier was complete and the procedures in place were followed was provided for only three cases and there was no evidence provided to prove that drafts were reviewed by the SPO in connection with existing government priorities and policies⁹¹. The inconsistent enforcement of the rules is also evidenced by the fact that regulations and policy documents are often approved despite breaching the existing standards and rules about public consultation⁹². On a more positive side, four out of the five cases had their fiscal impact assessments checked by the MoF.

The RoP requires that all materials for government meetings be submitted to the GSS 15 working days before the meeting⁹³. According to the OPM, out of 181 items submitted to the Government in the last quarter of 2020, 157 (87%) were submitted on time.

The agendas of formal government meetings are not made publicly available online prior to the session. The RoP requires that records of all decisions made at the government sessions (minutes) are kept and distributed after sessions to all ministers, ministries and key OPM departments⁹⁴. Decisions of the Government are in principle published on the official government website⁹⁵. However, there are cases when only the body of the decision is published, without the accompanying documents that were actually adopted with the decision⁹⁶. After each session, for the purpose of communicating with the media and the public, a short message is also usually published online, summarising the main decisions made⁹⁷, but the past positive practice of holding regular press conferences that allowed for direct questions from the press has not yet been re-established.

⁸⁸ If policy proposals are not prepared in accordance with the standards set by the RoP (Article 10), the Government Secretariat has the power to return them to the proposing body with instructions on how and by when they need to be corrected.

⁸⁹ The sample included: 1) the draft Law on Amendment and Supplement of Law No. 04/L-159 on Economic Zone; 2) the draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo; 3) the draft Law to amend and supplement Law No. 04/I-061 on the Sale of Apartments with a Tenure Right; 4) the draft Law on the Lottery of the Republic of Kosovo; and 5) the draft Law to amend and supplement Law No. 05/L-010 on the Kosovo Property Comparison and Verification Agency.

⁹⁰ For the draft Law to amend and supplement Law No. 04/L-159 on Economic Zones.

⁹¹ That SPO is not consistent in providing its opinions was confirmed also during the interview with the GSS.

⁹² According to the official Annual Report on Public Consultations in the Government of the Republic of Kosovo for 2020 (p. 7), published by the Office for Good Government of the OPM in March 2021, of 184 regulations and policy documents that required mandatory public consultation, rules in place were breached in 66 cases.

⁹³ RoP, Article 10.

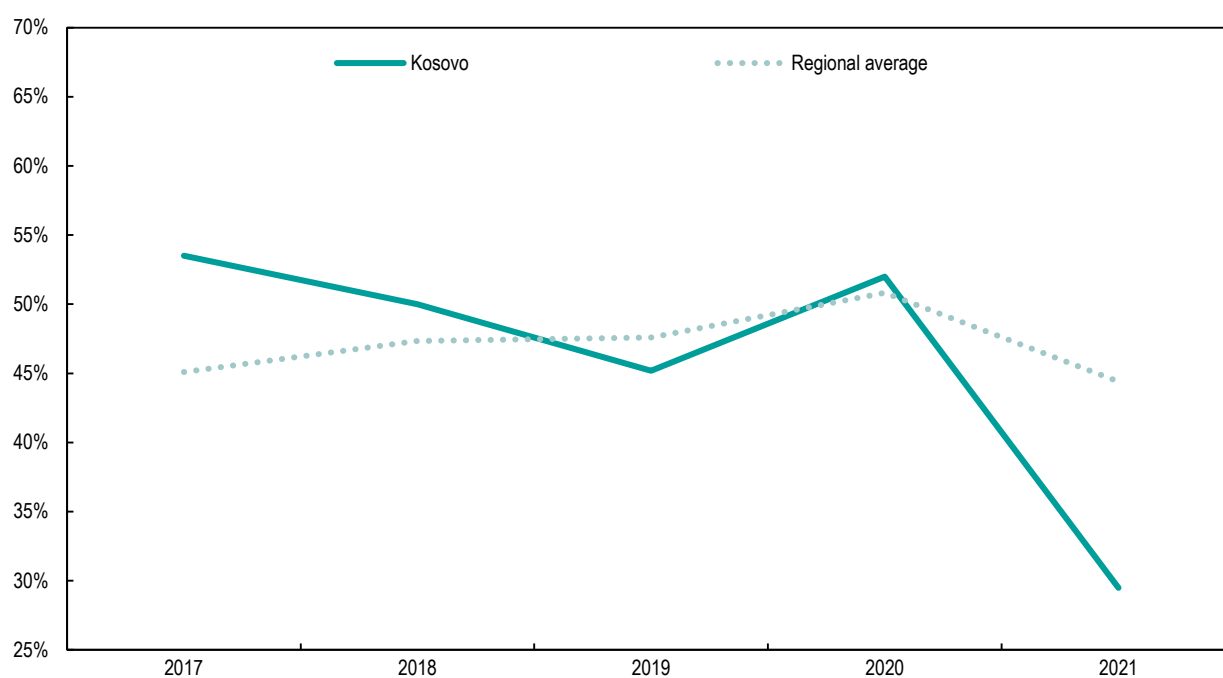
⁹⁴ *Idem*, Article 23.

⁹⁵ Cf. <https://www.rcc.int/download/docs/2021-06-BB2021-Business.pdf/439939a7489554684db46d2c266bfdbc.pdf>, p. 93.

⁹⁶ E.g. Decision 03/24 of 11 August 2021 on the Approval of the Action Plan for the Implementation of the Second Phase of the Agreed Political Priorities between the European Union and the Republic of Kosovo – Agenda for European Reform (PV ERA II), <https://kryeministri.rks-gov.net/wp-content/uploads/2021/08/Vendimet-e-Mbledhjes-se-24-te-te-Qeverise-se-Republikes-se-Kosoves-.pdf> and Decision 04/24 of 11 August 2021 on the Approval of the Strategy for Rule of Law 2021-2026, <https://kryeministri.rks-gov.net/wp-content/uploads/2021/08/Vendimet-e-Mbledhjes-se-24-te-te-Qeverise-se-Republikes-se-Kosoves-.pdf>. Neither of the approved planning documents was published together with the decisions on their approval.

⁹⁷ <https://kryeministri-ks.net/?s=Mbledhja+e>.

Figure 1. Perceived clarity and stability of government policy making by businesses



Note: Positive responses (“Strongly agree” and “Tend to Agree”) to the question whether the laws and regulations affecting businesses are considered.

Source: Regional Cooperation Council, Balkan Barometer Business Opinion database (<https://www.rcc.int/balkanbarometer>).

The Balkan Barometer shows that businesses’ perception of the clarity and stability of government policy making is very poor and is estimated to be at 29%⁹⁸. This is a major downgrade from 2017, when 54% of businesses agreed that laws and regulations affecting their company were clearly written, not contradictory and did not change too frequently⁹⁹.

Conclusion

The legal framework establishes clear rules for government decision making, and quality checks on policy proposals are in theory also in place. However, in practice, the CoG bodies fail to consistently check for quality and coherence with government priorities. Government transparency is also lacking. Agendas for government sessions are not made public in advance, and decisions are not consistently published online.

⁹⁸ <https://www.rcc.int/download/docs/2021-06-BB2021-Business.pdf/439939a7489554684db46d2c266bfdbc.pdf>.

⁹⁹ OECD (2017), *Monitoring Report: Kosovo*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>, p. 36.

Principle 7: The parliament scrutinises government policy making.

Overall, the value for the indicator 'Parliamentary scrutiny of government policy making' is 3. The total allocation of points is slightly lower due to inconsistent co-ordination between the Government and Parliament, which is also evident from the lack of systematic review of Parliament's bills by the Government as well as in the increased time it takes for Parliament to adopt the Government's bills.

Indicator 2.7.1 - Parliamentary scrutiny of government policy making					
This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.					
Overall 2021 indicator value	0	1	2	3	4 5
				Points 2021	Change from 2017
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making				5/5	=
2. Completeness of supporting documentation for draft laws submitted to the parliament				2/3	=
3. Co-ordination of governmental and parliamentary decision-making processes				1/2	-1
4. Systematic review of parliamentary bills by government				0/1	-1
5. Alignment between draft laws planned and submitted by the government (%)				2/2	+2
6. Timeliness of parliamentary processing of draft laws from the government (%)				0/2	-1
7. Use of extraordinary proceedings for the adoption of government sponsored draft laws (%)				0/5	=
8. Government participation in parliamentary discussions of draft laws				2/2	=
9. Basic parliamentary scrutiny of the implementation of policies				0/2	-2
Total				12/24	-3

The right of the Assembly and its committees to debate, scrutinise and amend government policies and programmes is ensured by the Constitution and further elaborated by the RoP of the Assembly¹⁰⁰. However, it does not seem to be fully effective, as evidenced by the high share of MPs' questions that remain unanswered by the ministers. Under their 2019-2020 mandate, MPs initiated 1 motion of no confidence in the Government and 11 interpellations and also submitted 226 oral questions to members of the Government; of these only 120 (53%) were answered¹⁰¹.

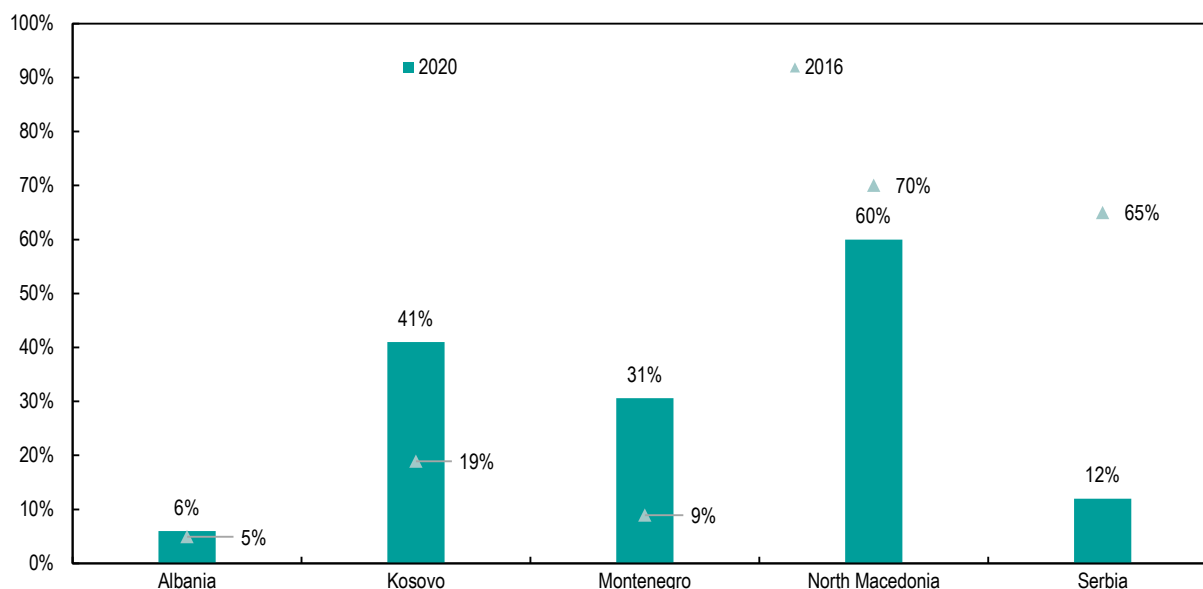
However, the Assembly's ability to scrutinise the work of the Government remains limited due to the high proportion of Government-sponsored bills dealt with in extraordinary proceedings. In 2020 41% of draft

¹⁰⁰ RoP of the Assembly, Article 21 (Rights of Members of Parliament), Articles 56-59 (reading and review of draft laws), Chapter XIV, Articles 62-72 (Assembly Committees).

¹⁰¹ According to the Report on the Work of the Assembly of the Republic of Kosovo, Legislature VII 2019-2020, pp. 25-26.

laws submitted by the Government were adopted in extraordinary proceedings¹⁰², compared to 19% in 2016¹⁰³.

Figure 2: Use of extraordinary/shortened proceedings for the adoption of government sponsored draft laws (% of total)



Note: Information about all levels of the BIH administration was not available to report.

Source: SIGMA analysis, based on the information collected from the Assembly's administration, publicly available reports and data provided from the administrations.

Mechanisms are in place to allow the Government to review any new legislative proposal initiated by the MPs¹⁰⁴. The Government has a month to provide its opinion, but its opinion is not mandatory, as the drafts may proceed through Parliament without it. According to the Secretariat of the Assembly there is consequently no systematic government review of bills initiated by the Assembly. This was confirmed by a review of the last three draft laws initiated by the MPs in 2020: the Government provided its opinion for two of them only¹⁰⁵.

As for the co-ordination of governmental and parliamentary decision-making processes, the Secretariat of the Assembly reports that the Government regularly shares its annual legislative plan with the Assembly, but that there is no practice of regular meetings between the institutions at a senior administrative or political level. The Secretariat also confirmed that the Government is consistently represented in plenary sessions of the Assembly by ministers or their deputies, when issues under their responsibility are being discussed, and also at committee sessions when invited.

¹⁰² In 2020 the Assembly adopted 17 Government-sponsored draft laws. Seven of them were adopted in extraordinary proceedings.

¹⁰³ OECD (2017), *Monitoring Report: Kosovo*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>, p. 38.

¹⁰⁴ RoP of the Assembly, Article 53 on Introduction of Draft Laws.

¹⁰⁵ The sample included the draft Law No. 07/L-044 on Prevention and Protection from Domestic Violence and Violence Against Women, the draft Law No. 07/L-040 amending and supplementing Law No. 04/L-131 on Pension Schemes Financed by the State and the draft Law No. 07/L-039 on Kabash Village Explanatory Memorandum. The Government provided its official opinion only on the first two drafts.

In 2020, 83% of drafts submitted to the Assembly by the Government originated from the initial legislative plan, which represents an improvement over 2016, when the alignment was 57%. On the other hand, the Assembly managed to process only 2 out of 15 (13%) Government-sponsored draft laws submitted in 2019 within one year, which is a significant deterioration from 2016, when the figure was 81%¹⁰⁶. The main reason is that in 2020 there were two changes of government. Parliamentary supervision of the implementation of legislation has also weakened in recent years, as the Assembly did not discuss any reports on the implementation of laws during 2019-2020¹⁰⁷, while in 2016 it discussed nine reports and eight in 2014¹⁰⁸.

The legal drafting rules and guidelines followed by the Assembly are consistent with those followed by the Government¹⁰⁹. The RoP of the Assembly requires draft laws submitted by the Government to be accompanied by explanatory memoranda or other supporting documents¹¹⁰. While the package submitted to the Assembly does not need to include an overview of the results of public consultation, in practice the Government provides the same explanatory memoranda as were submitted to it for approval, and these contain summary information on public consultation. Analysis of the last five draft laws and accompanying materials submitted to the Assembly in 2016, as well as interviews with the Assembly staff, confirmed that the packages submitted by the Government are usually complete¹¹¹.

Conclusion

Adequate parliamentary scrutiny of government policy making is formally ensured but the high share of Government-sponsored bills being processed in extraordinary procedures limits its effectiveness. A further problem is that Parliament very rarely discusses the Government's implementation of laws and policies. There is no regular co-ordination between the Government and Parliament, and the Government does not consistently review bills that are initiated by Parliament, which may lead to inconsistencies in policies.

¹⁰⁶ OECD (2017), *Monitoring Report: Kosovo*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>, p. 38.

¹⁰⁷ Report on the Work of the Assembly of the Republic of Kosovo, Legislature VII 2019-2020, p. 26.

¹⁰⁸ OECD (2017), *Monitoring Report: Kosovo*, p. 38.

¹⁰⁹ RoP of the Assembly, Article 54.

¹¹⁰ *Idem*, Article 54/1.

¹¹¹ The sample included the draft Law No. 07/L-051 on the Lottery in the Republic of Kosovo, the draft Law No. 07/L-050 to amend and supplement Law No. 04/L-061 on the Sale of Apartments for Which there is a Tenure Right, the draft Law No.07/L-049 on the Ratification of the Agreement between the Government of the Republic of Kosovo and the Government of Hungary on Amendment No. 1 of the Agreement regarding the Draft Program for Financial Co-operation, the draft Law No. 07/L-047 to amend and supplement Law No. 05/L-010 on the Kosovo Property Comparison and Verification Agency and the draft Law No.07/L-046 to amend and supplement Law No. 05/L-015 on Identity Cards. Four out of five drafts included the mandatory supporting material (except for the package for draft Law No. 07/L-047 to amend and supplement Law No. 05/L-010 on the Kosovo Property Comparison and Verification Agency, which did not include the mandatory budget impact assessment and the *acquis* compliance statement).

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

Overall, the value for the indicator ‘Adequacy of organisation and procedures for supporting the development of implementable policies’ is 3. The legislative framework has improved with the adoption of detailed and unified rules about the development of planning documents. However, the total amount of points remains the same, as SIGMA was not able to verify the adequacy of policy development staffing levels at the ministries because the required data was not submitted for review. For the same reason, it was also not possible to confirm the adequacy of policy development practice within the ministries.

Indicator 2.8.1 - Adequacy of organisation and procedures for supporting the development of implementable policies

This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.

Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the regulatory framework for effective policy making				4/4	+2	
2. Staffing of policy development departments (%)				0/2	=	
3. Adequacy of policy-making processes at ministry level in practice				2/6*	-2	
Total				6/12	=	

Note: *Data not available or provided.

The RoP places ultimate responsibility for policy development and legislative drafting with ministries. Although directors of executive agencies and offices of the OPM are also allowed to initiate the drafting process¹¹², they cannot submit the drafts for government approval as this right is given only to the ministers¹¹³. According to the RoP, “the material which is not proposed by ministries shall be sent by the Secretary, before the deliberation within the Government, to the responsible ministries. The ministries shall prepare a recommendation for submission to the Government based on their opinion on the materials”.¹¹⁴

The roles and responsibilities of individual ministerial departments and units are clearly established by regulations on the internal organisation and job systematisation of individual ministries¹¹⁵. Sector-specific policy departments are responsible for the elaboration of policy proposals and for legal drafting in their respective areas of work.

The legislative process in the ministries is regulated in detail by Regulation No. 13/2013 on the Government Legal Service, which establishes procedures for the in-house drafting process, preliminary and public consultation and the final review of draft legislation. According to the regulation, the process starts with the appointment of an official responsible for drafting the act and leading the process internally. This appointment is the responsibility of the Secretary-General. If the situation requires it, a drafting team may also be appointed by the Secretary-General. The responsible official then leads the process quite

¹¹² RoP, Article 38.

¹¹³ *Idem*, Articles 9 and 10.

¹¹⁴ *Idem*, Article 10/4.

¹¹⁵ Based on an assessment of the regulations on internal organisation and job systematisation of the Ministry of Agriculture, Forestry and Rural Development, the Ministry of Economic Development, the Ministry of Labour and Social Welfare and the Ministry of Environment and Spatial Planning.

independently, but before the draft act is submitted to the minister for approval, it needs to undergo a final review by the Director of the Legal Department and the Secretary-General¹¹⁶.

The in-house procedures for drafting strategies were enhanced and unified in 2018 with the adoption of Administrative Instruction No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans, which sets clear and detailed rules concerning the development of planning documents. According to the instruction, the development of strategies starts with the appointment of a team leader and the members of the drafting team by the General Secretary of the responsible ministry (in co-ordination with the SPO of the OPM)¹¹⁷. The instruction also stipulates which ministerial departments, ministries and OPM departments must be included in the drafting team¹¹⁸ and the procedures for inter-ministerial and public consultation¹¹⁹, and it requires the final review of the draft by the SPO¹²⁰. There are, however, still no rules (either unified or individual) on how the development of concept documents should run within the ministries.

The number of staff dealing with policy development could not be analysed, as appropriate data on the staffing of ministerial units was not provided for review. As a result, zero points are awarded for the sub-indicator measuring the staffing levels of policy development departments.

The practical adequacy of policy-making processes at ministry level could also not be checked, as the required samples and documentation were not provided for review. Therefore, no points are awarded also for sub-indicators measuring the consistency of practice.

Conclusion

According to regulation, ministries are responsible for policy development, but their internal policy-development process is not sufficiently regulated. While there are clear procedures set for legal drafting and the development of strategies, there is a lack of such procedures for the development of concept documents. The consistency of policy development in practice could not be verified because the administration did not provide the required data. For the very same reason, it was also not possible to verify the adequacy of staffing for policy development.

¹¹⁶ Regulation No. 13/2013 on the Government Legal Service, Articles 9-13.

¹¹⁷ Administrative Instruction No. 07/2018 on Planning and Drafting Strategic Documents and Action Plans, Article 8.


¹¹⁸ *Ibid.*

¹¹⁹ *Idem*, Article 11.

¹²⁰ *Idem*, Article 12.

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

Overall, the value for the indicator ‘Government capability for aligning national legislation with the European Union *acquis*’ is 1. The main reason for this significant drop in the total value is that SIGMA could not verify the use of tables of concordance in the *acquis* alignment process because the required documentation was not provided for review. Also, translations of the *acquis* were not available in time because the 2021 EI plan had not yet been adopted at the time of the review. However, the deterioration in the indicator value is also partly due to the drop in the implementation rate of planned *acquis* alignment commitments.

Indicator 2.9.1 - Government capability for aligning national legislation with the European Union <i>acquis</i>						
This indicator measures the adequacy of the legal framework for the <i>acquis</i> alignment process, the government’s consistency in using tables of concordance in the <i>acquis</i> alignment process and the availability of the <i>acquis</i> in the national language. It also assesses the results of the <i>acquis</i> alignment process, focusing on the planned <i>acquis</i> alignment commitments carried forward from one year to the next and how the government is able to achieve its <i>acquis</i> alignment objectives.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
	Points 2021	Change from 2017				
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process	5/5	=				
2. Use of tables of concordance in the <i>acquis</i> alignment process (%)	0/2*	-2				
3. Translation of the <i>acquis</i> into the national language	0/2	=				
4. <i>Acquis</i> alignment commitments carried forward (%)	0/4*	-2				
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)	0/4	-1				
Total	5/17	-5				

Note: *Data not available or provided.

The responsibilities regarding the *acquis* alignment process are stipulated in the RoP, the Regulation on Internal Organisation and Systematisation of Jobs in the OPM and the Administrative Instruction 03/2013 on Standards for the Drafting of Normative Acts. Since the dissolution of the MEI in 2020, the OPM is in charge of planning, co-ordinating and monitoring the *acquis* alignment process¹²¹. According to the Regulation on Internal Organisation and Systematisation of Jobs in the OPM, these tasks are delegated to the EU Law Division, a former department of the MEI that was merged into the LO of the OPM. The RoP has not yet been updated and still states that each government body, prior to submitting a draft law or other document must consult the MEI¹²². However, according to the Regulation on Internal Organisation and Systematisation of Jobs in the OPM this former MEI task of ensuring conformity of proposed regulations with the *acquis* is now also with the EU Law Division.

Policy proposals dealing with the alignment of the *acquis* are subjected to the same requirements as domestic proposals¹²³ and, therefore, need to undergo public and inter-ministerial consultation

¹²¹ Regulation (OPM) No. 01/2020, Article 8.

¹²² RoP, Article 7, sub-section 1.2.

¹²³ *Idem*, Article 31.

procedures¹²⁴. In the case of conflicting opinions, the weekly meetings of the General Secretaries serve as the main forum for resolving them, as with domestic proposals¹²⁵.

For every draft regulation, the sponsoring ministry must prepare a declaration of its concordance with the *acquis* and a Table of Concordance, while the EU Law Division is required to issue a legal opinion on the matter¹²⁶. According to the EU Law Division, the ministries consistently meet this requirement when it comes to draft laws and by-laws submitted to the Government for adoption, but they are not as consistent when it comes to secondary legislation passed by ministers, as some ministries do not send such secondary legislation to the EU Law Division for the mandatory quality check. On the other hand, the EU Law Division is reportedly consistent in providing its opinions despite being understaffed¹²⁷, though the practice could not be verified, as the required sample was not provided for review.

To ensure the timely translation of the *acquis* planned for transposition, the annual calendar of translations is prepared and confirmed every year on the basis of the NPISAA¹²⁸. However, the availability of translations could not be verified as the 2021 NPISAA had not been adopted at the time of review. For the same reason, the percentage of *acquis* alignment commitments carried forward from the 2020 plan could also not be calculated.

In 2020 the Government was able to adopt 45% (33 out of 73) of planned legislative commitments for *acquis* alignment. This is a deterioration from 2016 when the implementation rate was 61%¹²⁹, however, 2020 was not an ordinary year, as due to the 2019 parliamentary elections, the Government was appointed only in February, a vote of no confidence was taken in March and the new Government was sworn in only in early June.

Conclusion

Adequate rules and procedures for the transposition of the *acquis* are in place, and the transposition process is integrated with the overall government policy-development process. However, the poor implementation rate for *acquis* alignment remains a problem. There are also issues with quality control by the CoG. The timeliness of the translations of the EU Directives planned for transposition could not be verified because the 2021 EI plan has not yet been adopted due to the elections and the change of government.

¹²⁴ Neither the RoP nor the Regulation (GRK) No. 05/2016 on Minimum Standards for the Public Consultation Process foresee any exceptions for proposals dealing with the *acquis* alignment in this respect.

¹²⁵ RoP, Article 55.

¹²⁶ Administrative Instruction 03/2013 on Standards for the Drafting of Normative Acts (17/06/2013), Article 38.

¹²⁷ According to the EU Law Division, there are 7 lawyers currently working on compliance checks and translations, but it is estimated that these tasks would require 19 lawyers (13 for checking compliance and 6 for translations).

¹²⁸ The 2021 annual calendar had not been adopted by the time of the SIGMA review, as the 2021 NPISAA had also not been adopted at the time.

¹²⁹ OECD (2017), *Monitoring Report: Kosovo*, OECD, Paris, <http://sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>, p. 43.

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

Overall, the value for the indicator ‘Evidence-based policy making’ is 2. There were no major changes in the legislative framework, but the guidance on regulatory impact assessment improved with the new Guidelines and Manual for Developing Concept Documents. However, the actual quality of impact assessments remains as low as in 2017.

Indicator 2.10.1 - Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Regulation and use of basic analytical tools and techniques to assess the potential impact of draft new laws					2/2	=
2. Regulation and use of budgetary impact assessment prior to approval of policies					2/3	-1
3. Regulation and use of Regulatory Impact Assessments					1/3	=
4. Availability of guidance documents on impact assessment					2/2	+1
5. Quality control of impact assessment					2/3	=
6. Quality of analysis in impact assessment					2/15*	+2
Total					11/28	+2

Note: *Data not available or provided.

The rules regarding the regulatory impact assessment are set out in the RoP. Different types of acts are subject to different rules. All proposals submitted to the Government for adoption, i.e. all regulations and strategies, need to be accompanied by an explanatory memorandum¹³⁰. According to the RoP, each explanatory memorandum must contain the rationale for the proposed draft and a budgetary impact assessment (BIA). The RoP requirements are stronger for new primary legislation or amendments to primary legislation; important secondary legislation; recommendations that have significant social, economic or other impacts; proposals with high implementation costs; and those that represent important government or ministry priorities. It stipulates that they need to be preceded by concept documents. The concept document should include problem identification, objective setting, analysis of alternative options and their impacts in the broad sense, and justification for the selection of the preferred option. After government approval of the concept document, the ministry responsible may proceed with preparing the draft legislation, which should be accompanied by an explanatory memorandum¹³¹.

The implementation of these requirements is supported by the Guidelines and Manual for Developing Concept Documents and the Administrative Instruction on Budget Impact Analysis for New Government Initiatives¹³². They include practical information (with examples) and methodologies on how to estimate the costs and benefits of policy proposals.

According to the GSS of the OPM, in practice, concept documents are still prepared only for draft laws, but not for more important secondary legislation or strategies, as required by the RoP. This means that quality control does not work effectively enough, even though it is nominally established. It has been the

¹³⁰ RoP, Article 30.

¹³¹ *Idem*, Article 29.

¹³² Administrative Instruction (GRK) No. 03/2015 on Budget Impact Analysis for New Government Initiatives.

requirement since November 2020 that the quality of concept documents be checked by the SPO of the OPM¹³³, which according to information from the GSS still does not issue opinions for all concept documents. Quality control of the BIA is the responsibility of the MoF¹³⁴. SIGMA analysis of the five draft law packages submitted for review also confirmed that quality control is not consistently enforced in practice¹³⁵. In fact, none of the packages in the sample included the OPM/SPO opinion on the quality of policy and impact analysis, while the MoF's opinion on BIA was submitted in just four cases.

The assessment of the four sample concept documents submitted¹³⁶ additionally suggests that, when compared with the last SIGMA review in 2017, the quality of impact assessments has not significantly improved and remains just as weak. While the ministries are able to define the problems and main objectives of the regulation proposed, they continue to have difficulty describing alternative options for achieving the objectives. Only two of the four concept documents addressed non-regulatory options and substantiated sufficiently convincingly why they were not appropriate. However, none of the four concept documents discussed regulatory alternatives, even though in all four cases different legislative solutions were possible on individual issues.

In all four cases, the analysis of the expected impacts was also insufficient, as they had not been quantified in any of the cases. The Law on the Lottery, for example, is forecast to increase the number of new businesses and jobs and reduce administrative burdens on businesses, but no numbers are given. The concept paper for the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks claims that the law will boost the digital economy and have “a direct impact on reducing the cost to entrepreneurs of electronic communications networks, while expanding and advancing their broadband infrastructure” without concretising or assessing the volume of impacts in any way. The concept document on the Draft Law on Electronic Identification and Trust Services in Electronic Transactions, though it is the best of the cases in the sample, also fails to provide any specific figures when it discusses impacts (e.g., the number of people or businesses that will benefit from the change or the estimated value of business savings due to reduced overheads and reduced administrative burdens).

Also, none of the sample cases discussed how and by whom the policy would be enforced, and nor were any monitoring mechanisms described in the concept documents or the explanatory memoranda.

The quality of the BIA could not be analysed, as the required sample BIA were not submitted for review.

Conclusion

The policy-making process is in theory evidence-based, as the legislation requires that impact assessment is consistently used across ministries. However, impact assessment and appraisal of alternative policy options are not consistently implemented in practice. The main problem is that the OPM, which is responsible for quality control, is not implementing it with enough consistency and rigour.

¹³³ Regulation (OPM) No. 01/2020, Article 13/2.9.

¹³⁴ RoP, Article 35 on the Review of Materials by the OPM.


¹³⁵ The sample included: the Draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo, the Draft Law on the Lottery in the Republic of Kosovo, the Draft Law on Normative Acts, the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks and the Draft Law on Electronic Identification and Trust Services in Electronic Transactions.

¹³⁶ Concept documents were submitted for the following draft laws: the Draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo, the Draft Law on the Lottery in the Republic of Kosovo, the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks and the Draft Law on Electronic Identification and Trust Services in Electronic Transactions, but not for the Draft Law on Normative Acts.

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

Overall, the value for the indicator ‘Public consultation on public policy’ is 3, which represents a significant improvement since 2017. There was no change in the regulatory framework, but the regularity of publishing draft laws for public consultation has improved as has the quality of public consultations. However, there is a continuing problem with consistent enforcement of quality control by the OPM.

Overall, the value for the indicator ‘Inter-ministerial consultation on public policy’ is 3. No changes were identified in the regulatory framework, but the total value went down because of the inconsistencies in the enforcement of the rules and standards in place.

Indicator 2.11.1 - Public consultation on public policy						
This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation and the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved draft laws.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the regulatory framework for an effective public consultation process				9/10	-1	
2. Quality assurance of the public consultation process				1/3	=	
3. Consistency in publishing draft laws for written public consultation				3/4	+3	
4. Test of public consultation practices				11/24	+9	
Total				24/41	+11	

Procedures for public consultation are set by the RoP¹³⁷ and further detailed in the Regulation on Minimum Standards for the Public Consultation Process¹³⁸. Public consultation is required for both draft laws and draft secondary legislation adopted by the Government¹³⁹. The minimum duration for written consultation is established at 15 days¹⁴⁰. The RoP stipulates that the sponsoring ministry must report on the outcome of public consultation to the Government¹⁴¹, and that the report on the public consultation must also be published online¹⁴². The Regulation on Minimum Standards for the Public Consultation Process further requires that the consultation document is published together with the draft consulted. It must, as a minimum, contain a brief description of the problem addressed by the draft and the list of main issues consulted¹⁴³. While this requirement may help stakeholders to understand the purpose of individual consultations, there is still no requirement to publish with the proposal the explanatory memorandum, impact assessment report or other documents used in preparing the proposal, to deepen the information available to stakeholders and thus enable them to give a quality, informed response.

¹³⁷ RoP, Article 32.

¹³⁸ Regulation (GRK) No. 05/2016 on Minimum Standards for Public Consultation Process.

¹³⁹ *Idem*, Article 5.

¹⁴⁰ *Idem*, Article 9.

¹⁴¹ RoP, Article 32.

¹⁴² Regulation (GRK) No. 05/2016, Article 15.

¹⁴³ *Idem*, Article 5, Section 2.


Quality assurance of the public consultation process is not efficiently ensured. The Regulation on Minimum Standards for the Public Consultation Process establishes the responsibility of the LO of the OPM for checking if the standards of the public consultation were met¹⁴⁴. However, in practice such checks are not consistently enforced for any kind of document. The official government annual monitoring report for 2020, prepared by the Office for Good Governance of the OPM, reports that rules and standards in place (regarding mandatory consultation, minimum deadlines, publication of consultation documents, consultation reports, etc.) were not followed in 66 out of 184 (36%) draft acts requiring mandatory public consultation¹⁴⁵. Also, as reported by the non-governmental organisations, public consultations are still often conducted very late in the process, once the draft has already been prepared, and are usually not organised in a targeted way. This may explain why there is still relatively little feedback from the public¹⁴⁶.

Analysis of the consultation procedures for the five draft laws in the sample¹⁴⁷ showed that written public consultations were conducted for all five drafts and that the minimum deadline was also respected in all five cases. In all five cases, the consultation document was published with the draft law, but none of them contained any detailed substantiation of the proposal that would allow for an informed response. In four cases, meetings with stakeholders were organised in addition to online consultation¹⁴⁸. The consultation report was made publicly available in only three cases¹⁴⁹, despite the fact that comments were received in all five cases. All three published reports included brief explanations for not accepting proposals.

A sample of four ministries¹⁵⁰ additionally revealed that all of them published at least 80% of their draft laws for written public consultations in 2020.

Indicator 2.11.2 - Inter-ministerial consultation on public policy

This indicator measures the adequacy of the regulatory framework for the inter-ministerial consultation process and tests the system in practice for five draft laws.

Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the regulatory framework for an effective inter-ministerial consultation process				9/9	=	
2. Test of inter-ministerial consultation practices				2/12	-5	
Total				11/21	-5	

¹⁴⁴ *Idem*, Article 19.

¹⁴⁵ Annual Report on Public Consultations in the Government of the Republic of Kosovo for 2020, p. 7. That existing quality control is insufficient and not enforced systematically was confirmed also by the interview with the Office for Good Governance of the OPM.

¹⁴⁶ *Idem*, pp. 17-18, 22.

¹⁴⁷ The sample included: the Draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo, the Draft Law on the Lottery in the Republic of Kosovo, the Draft Law on Normative Acts, the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks and the Draft Law on Electronic Identification and Trust Services in Electronic Transactions.

¹⁴⁸ In the case of the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks, there was only online consultation organised.

¹⁴⁹ The Draft Law on Normative Acts, the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks and the Draft Law on Electronic Identification and Trust Services in Electronic Transactions.

¹⁵⁰ The sample included the ministries responsible for agriculture, economy, social affairs and trade and industry.

The rules for the inter-ministerial consultation process are laid out by the RoP¹⁵¹. It gives the ministries and other consulted bodies 15 working days to comment¹⁵². The comments and suggestions received must be included in the documentation submitted to the Government with the draft proposal, with an indication of whether such comments were incorporated in the proposal and, if not, why not¹⁵³. In any case of conflicting opinions, the Prime Minister may call for a discussion among the ministers in order to resolve the issue¹⁵⁴, but in practice the weekly meetings of the Council of General Secretaries serve as primary conflict resolution forums¹⁵⁵.

The practice of inter-ministerial consultation could not be fully analysed because complete documentation was not provided for all five sample cases¹⁵⁶. The information about the duration of the consultation with the ministries was made available only for one of the five cases in the sample¹⁵⁷, where the minimum deadline was respected, and the explanatory memorandum was provided for review in four of the five cases¹⁵⁸. Of those four, three reported about consultation with CoG bodies¹⁵⁹, but sufficient evidence that other affected ministries were also consulted was provided only in one explanatory memorandum¹⁶⁰. The information about the comments and the result of inter-ministerial consultation was included in three explanatory memoranda, but not in the fourth¹⁶¹.

Conclusion

Regulation and procedures for conducting public consultations are in place, but they are not followed consistently in practice. The key problem is that quality control is not systematically enforced in practice, which is evidenced by a high ratio of draft acts approved despite breaching the rules on consultation. The consultations are also still organised very late in the process. The formal procedures for inter-ministerial consultation are established, but they are not consistently followed in practice, resulting in limited discussion on substantive matters among relevant ministries.

¹⁵¹ RoP, Article 7.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

¹⁵⁴ *Idem*, Article 8.

¹⁵⁵ *Idem*, Article 55.

¹⁵⁶ The sample included: the Draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo, the Draft Law on the Lottery in the Republic of Kosovo, the Draft Law on Normative Acts, the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks and the Draft Law on Electronic Identification and Trust Services in Electronic Transactions.

¹⁵⁷ The Draft Law on Normative Acts.

¹⁵⁸ The explanatory memorandum was not provided for the Draft Law on Electronic Identification and Trust Services in Electronic Transactions.


¹⁵⁹ The Draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo, the Draft Law on Normative Acts and the Draft Law on Measures to Reduce the Cost of Deploying High-Speed Electronic Communications Networks.

¹⁶⁰ The Draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo.

¹⁶¹ The explanatory memorandum for the Draft Law on the Lottery in the Republic of Kosovo reported on the public consultation only.

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

Overall, the value for the indicator ‘Predictability and consistency of legislation’ is 2. No change was identified in the regulatory framework on legal drafting, but the total value has dropped because, according to the Balkan Barometer, the confidence of the businesses in the stability and consistency of legislation affecting them has almost halved from 2017. Also, mandatory by-laws are often not adopted with sufficient time to enable effective implementation and legal clarity.

Indicator 2.12.1 - Predictability and consistency of legislation						
This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021		Change from 2017	
1. Availability of guidance documents on legal drafting			2/2		=	
2. Quality assurance on legal drafting			1/3		=	
3. Laws amended one year after adoption (%)			3/3		=	
4. Perceived clarity and stability of government policy making by businesses (%)			0/2		-1	
5. Timeliness of adoption of mandatory bylaws (%)			0/3		new ¹⁶²	
Total			6/13		-1	

Legal drafting requirements, including on how to enact and commence legislation, are set out in the Administrative Instruction on Standards for the Drafting of Normative Acts¹⁶³. This provides detailed and practical guidance on various aspects of legal drafting, with examples. The up-to-date version of the document is available online¹⁶⁴.

The LO of the OPM is responsible for co-ordinating the work of the ministries on legislative drafting and for ensuring the consistency and coherence of legislative drafting¹⁶⁵. According to the LO, it consistently provides its opinions on the final versions of the draft acts, but this could not be confirmed by the analysis of the supporting documentation for the five sample draft laws¹⁶⁶. Only one package included the LO opinion on the legal quality of the draft¹⁶⁷, and additionally, one explanatory memorandum reported the

¹⁶² This is a new sub-indicator. It was not part of the 2017 assessment.

¹⁶³ Administrative Instruction No. 03/2013 on Standards for the Drafting of Normative Acts.

¹⁶⁴ <https://gzk.rks-gov.net/actdocumentdetail.aspx?actid=8696>.

¹⁶⁵ RoP, Article 7; Regulation No. 13/2013 on the Government Legal Service, Article 15; and Regulation (OPM) No. 01/2020, Article 8.

¹⁶⁶ The sample included: 1) the draft Law to amend and supplement Law No. 04/L-159 on Economic Zones; 2) The draft Law on the Kosovo Philharmonic, Kosovo Opera and the National Ballet of Kosovo; 3) The draft Law to amend and supplement Law No. 04/L-061 on the Sale of Apartments with a Tenure Right; 4) The draft Law on the Lottery of the Republic of Kosovo; and 5) The draft Law to amend and supplement Law No. 05/L-010 on the Kosovo Property Comparison and Verification Agency.

¹⁶⁷ The draft Law to amend and supplement Law No. 04/L-159 on Economic Zones.

comments received from the LO¹⁶⁸, while in the remaining three cases there was no evidence that legal conformity was checked.

Nine new laws were adopted by Parliament in 2019 and the Government did not approve an amendment within one year after their adoption for any of them. However, according to the 2021 Balkan Barometer survey, only 29% of responding businesses tend to agree that the laws and regulations affecting their companies are clearly written, are not contradictory and do not change too frequently. This is a deterioration from 2017 when 54% agreed. Of the five by-laws that needed to be adopted to enable practical operability of the sample of three newly adopted laws¹⁶⁹, none was adopted on time, i.e., by the time the respective laws took full effect. This indicates that there are often legally complicated and unclear situations when the old legislation has expired and the new one cannot be applied due to the non-adoption of relevant by-laws. Such cases in practice cause unnecessary legal complications and, above all, problems for individuals and businesses.


Table 3. Perceived clarity and stability of government policy making by businesses

	2017	2021
Perceived clarity and stability of government policy making by businesses (%)	54%	29%

Note: For time-series, see Figure 1.

Source: Regional Cooperation Council, Balkan Barometer Business Opinion database (<https://www.rcc.int/balkanbarometer>).

Overall, the value for the indicator 'Accessibility of legislation' is 3. The regulatory framework has been enhanced with the adoption of the requirement that not only all laws but also all by-laws need to be published in the Official Gazette and available online. There is also a new requirement that all regulation needs to be available in a consolidated format. As a result, in practice, all secondary legislation is now also available online. However, the consolidation process has only just begun and is not yet complete.

Indicator 2.12.2 - Accessibility of legislation						
This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the regulatory framework for public accessibility of legislation				6/6	+1	
2. Accessibility of primary and secondary legislation in practice				4/8	+1	
3. Perceived availability of laws and regulations affecting businesses (%)				0/2	=	
Total				10/16	+2	

The Law on the Official Gazette of the Republic of Kosovo stipulates the process, the deadlines and the responsibilities of relevant bodies for publishing legislation¹⁷⁰. The legislation that is to be published in the

¹⁶⁸ The draft Law to amend and supplement Law No. 04/I-061 on the Sale of Apartments with a Tenure Right.

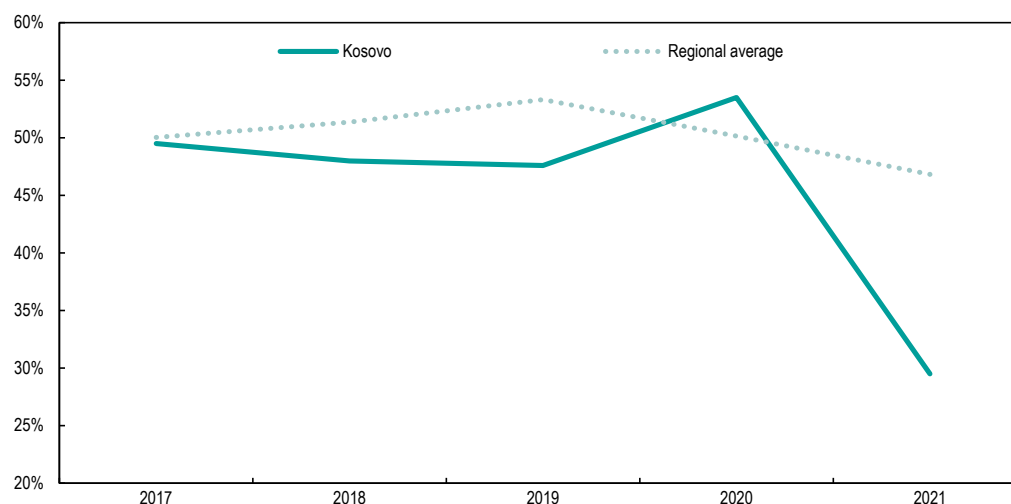
¹⁶⁹ The sample included the Law No. 05/L-029 on Corporate Income Tax, the Law No. 06/L-084 on Child Protection and the Law No. 06/L-081 on Access to Public Documents.

¹⁷⁰ Law No. 03/L-190 on the Official Gazette of the Republic of Kosovo, Articles 4-12.

Official Gazette has to be submitted to the Office for Publication of the Official Gazette of the OPM. The Office needs to publish it within 15 days after submission¹⁷¹. The Law on the Official Gazette requires that all laws are published in the Official Gazette¹⁷², and from August 2020, this has also been required for all by-laws by the Decree No. 02/28 for the Publication of By-laws of the Government and Ministries in the Official Gazette of the Republic of Kosovo¹⁷³. Since November 2020 it has also been required that all regulation must be published in a consolidated format¹⁷⁴.

All primary and secondary legislation is available to the public through a central registry and online free of charge¹⁷⁵. According to the Office for Publication of the Official Gazette the consolidation of both primary and secondary legislation is in progress but not yet finished.

Figure 3. Perceived availability of laws and regulations affecting businesses



Note: Positive responses (“Strongly agree” and “Tend to Agree”) to the question whether the laws and regulations affecting businesses are considered.

Source: Regional Cooperation Council, Balkan Barometer Business Opinion database (<https://www.rcc.int/balkanbarometer>).

The 2021 Balkan Barometer survey reported that 29.5% of business representatives found information on laws and regulations affecting their companies to be easily obtainable. This is a decline from 2017 when 49% agreed that such information is easy to obtain.

Conclusion

Standards regarding the quality of legislative drafting are established, and so is the quality check. However, the OPM does not consistently scrutinise the drafts submitted to the Government for adoption. The availability of legislation has improved, as all primary and secondary legislation is now available online. However, it is not yet in consolidated format, as the recently started consolidation process has not been finished yet. Businesses’ satisfaction with the availability of legislation affecting them has dropped

¹⁷¹ Law No. 03/L-190 on the Official Gazette of the Republic of Kosovo, Article 10, and Regulation (OPM) No. 01/2020, Article 23.

¹⁷² Law No. 03/L-190 on the Official Gazette of the Republic of Kosovo, Article 4.

¹⁷³ Decree No. 02/28 for the Publication of Bylaws of the Government and Ministries in the Official Gazette of Republic of Kosovo, Articles 2-6.

¹⁷⁴ Regulation (OPM) No. 01/2020, Article 23.

¹⁷⁵ According to the Office for Publication of the Official Gazette. The information was confirmed by the interviews with the NGOs.

by almost half since 2017 and is worryingly low, as is the confidence of businesses in the stability of government policy making.

Public Service and Human Resource Management

The Principles of Public Administration

Public Service and Human Resource Management

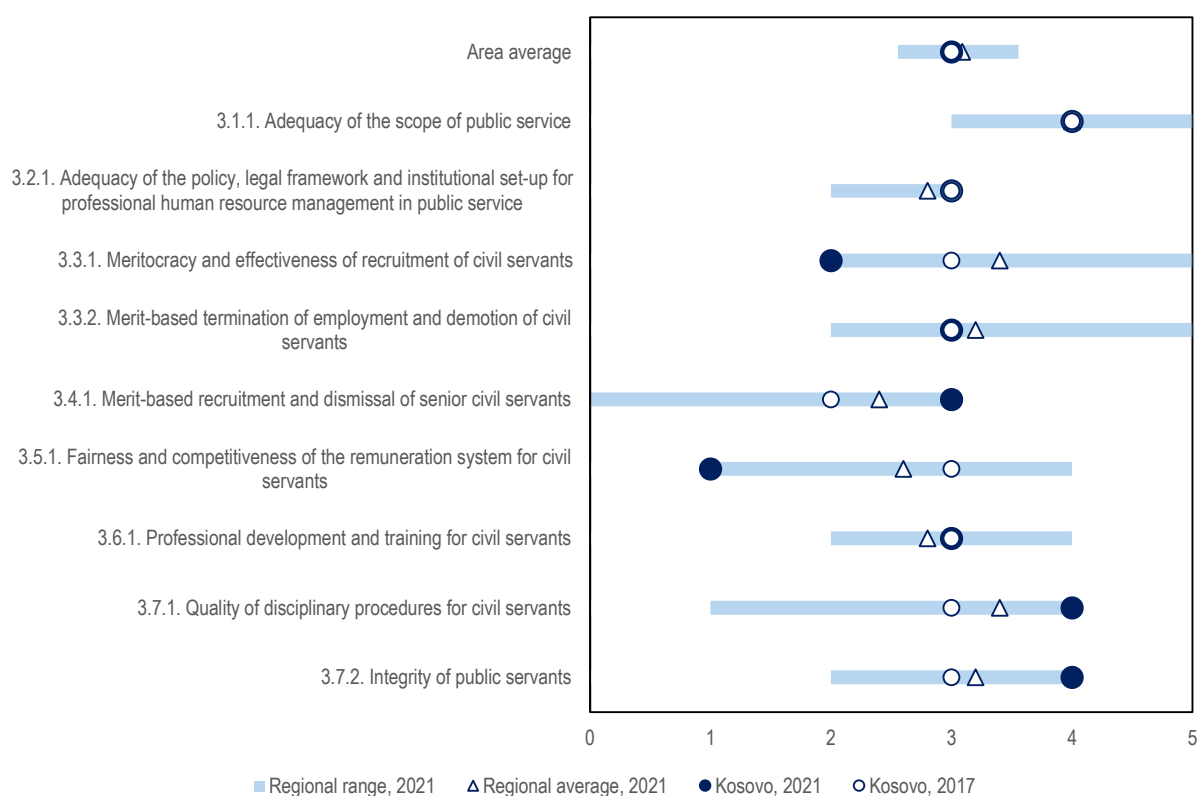
Principle 1	The scope of public service is adequate, clearly defined and applied in practice.
Principle 2	The policy and legal frameworks for a professional and coherent public service are established and applied in practice; the institutional set up enables consistent and effective human resource management practices across the public service.
Principle 3	The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.
Principle 4	Direct or indirect political influence on senior managerial positions in the public service is prevented.
Principle 5	The remuneration system of public servants is based on job classifications; it is fair and transparent.
Principle 6	The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.
Principle 7	Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.

Public Service and Human Resource Management

Summary and recommendations

Significant changes have been introduced to the civil service legislation since the 2017 monitoring report. The reform package of three laws adopted in 2019, which included the Law on Public Officials (LPO), aimed to create a unified merit-based civil service system and establish common principles of employment across the public sector. Unfortunately, this is not yet reflected in the average indicator value for the public service and human resource management (HRM) area, which remains at 3. This is because there are serious problems implementing the improved legislation. The recent launch of a programme of extensive revision of the LPO de-legitimises the existing regulations, reduces legal certainty and predictability and detracts attention from the efforts needed to finally make the current legislative framework operational.

Kosovo's indicator values for public service and human resource management indicators reflect good legislation and poor implementation. Lack of salary reform and scarce data resulted in the significant backslide in fairness and competitiveness of the remuneration system

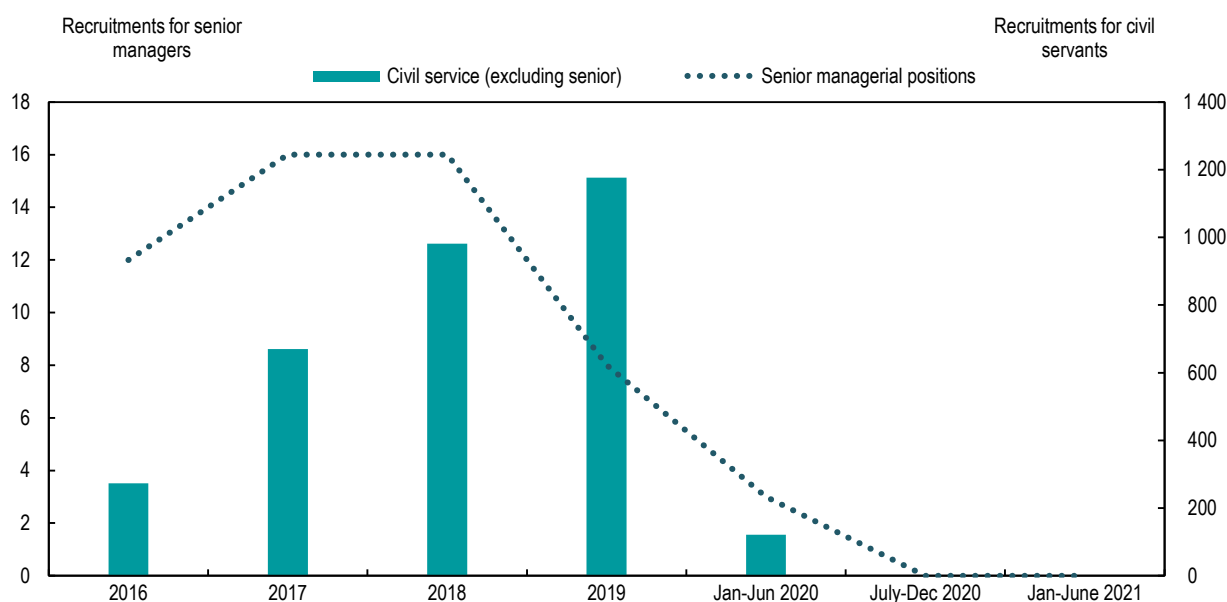


A comprehensive legislative framework is established by the LPO, and most secondary acts are in place for the civil service. The scope of the civil service is adequate and clearly defined. However, after the Constitutional Court decision declaring a number of articles of the LPO non-compliant with the Constitution, adjustments with regard to eight independent institutions are urgently needed, including clarification on whether the Law applies to them or not. The implementation of the amended scope and the new categorisation of positions relies on the Law on the Organisation and Functioning of the State Administration and Independent Agencies (LOFSAIA), which sets out requirements to determine the internal organisation of institutions together with the systematisation of jobs. This process is lagging seriously behind as only few institutions have completed the systematisation exercise.

The implementation of the LPO was seriously delayed, starting only in July 2020, and is still at the very beginning. The need for competent central co-ordination has increased due to the considerable centralisation of the civil service management. However, the responsible unit – the Department for the Management of Public Officials (DMPO) at the Ministry of Internal Affairs (MIA) – does not possess adequate human resources to fulfil its mission effectively. A lack of relevant civil service data, despite a functional Human Resource Information System (HRMIS), hampers reporting and co-ordination of the system and reduces transparency for the public. The Independent Oversight Board for the Civil Service (IOBSC), the independent body responsible for external oversight of the civil service, was not operational, as its board members were not appointed for an extended period of time.

Limiting the external recruitment to the professional category, together with a strong preference for internal mobility within the system for all the categories of civil servants, is a major innovation introduced by LPO. However, the application of the new framework is still to be seen in practice, as **no recruitments have taken place since July 2020**. Because the centralised recruitment procedures have not been launched, internal transfer has become the only instrument for filling vacant positions within the civil service. However, this creates new vacancies and does not address the overall need for new staff.

The number of vacancies offered in external competitions for civil servants and senior managerial positions before and after the entry into force of the LPO in June 2020 illustrates the serious problem with implementation of the LPO that persists in 2021



Source: Ministry of Public Administration, Annual Reports on civil service, <https://mpb.rks-gov.net/ap/page.aspx?id=1,140>, Ministry of Internal Affairs, DMPO data for 2020 and 2021.

A regulatory framework for reducing political influence over top managerial positions in the civil service has been improved with the new CSL. The MIA (DMPO) has been given a crucial role in implementing the new framework and ensuring the process is merit based. However, since **no competition processes have been carried out yet under the LPO, the quality of SCS admission and effectiveness of prevention of political influence in practice is not yet assessed.**

The civil service remuneration system does not ensure comprehensiveness, transparency, fairness and equal treatment. Following the Constitutional Court decision – which declared the 2019 Law on Salaries in the Public Sector (LSPS) unconstitutional – remuneration is still based on the 2010 regulation. Salaries are not transparent and the procedures to allocate basic salary do not ensure the principles of merit, fairness and equal treatment. Drafting of the new law on salaries has only just started and is hampered by the lack of reliable data on salaries both within and outside the civil service.

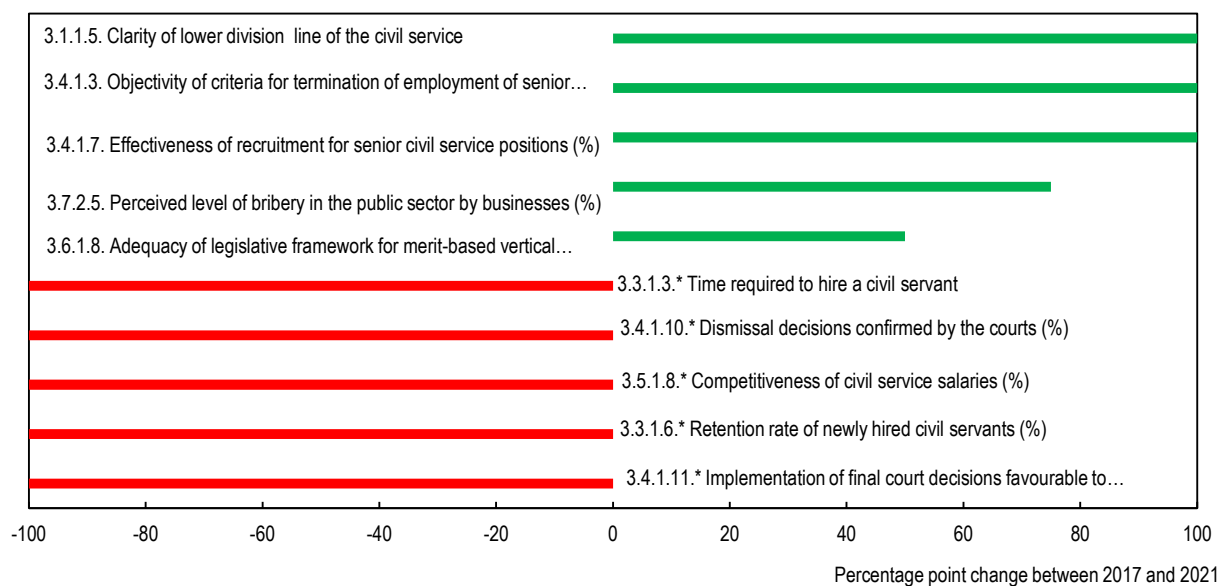
The professional development of public servants is vital under the new legislative framework, which relies on internal mobility. A strategic view is missing for the Kosovo Institute for Public Administration (KIPA) and civil service training, including clarity in the division of responsibilities between the KIPA and the DMPO. The DMPO does not offer sufficient support and guidance to institutions on merit-based promotion, mobility and performance appraisal in the form of training, methodological materials, dissemination of data and consultation.

Finally, a comprehensive legal framework on integrity and disciplinary procedures is in place. However, due to the political instability, no comprehensive integrity policy has been adopted. The responsibility for the implementation of anti-corruption activities lies with the Anti-Corruption Agency (ACA). Its functions in prevention and monitoring of institutional integrity plans need to be enlarged in order to strengthen the integrity policy and its co-ordination.

Short-term recommendations (1-2 years)

- 1) The Assembly should implement the Constitutional Court decision on the LPO. While the Assembly must provide a proper legal framework for independent institutions, at the same time the integrity of the LPO should be maintained.
- 2) The Government should immediately ensure the DMPO has the human resources necessary for it to fulfil its co-ordinating role in the civil service system, to enable the effective implementation of the LPO.
- 3) The Government should prepare the new salary law, ideally for the entire public service but at least for the civil service, following an inclusive process that considers the arguments in the Constitutional Court judgement on LSPS.
- 4) The Assembly should restore the functioning of the IOBSC by appointing its Board members.
- 5) The Government should implement that the new legislative framework for the recruitment and dismissal of senior civil servants in line with the principles of merit and transparency.
- 6) The DMPO should support the professionalism of HRM units by introducing a combination of training, methodological materials and networking opportunities.
- 7) The DMPO should establish the system and channels for analysing and disseminating the data on civil service salaries, independently of the progress of drafting the new salary law.
- 8) The DMPO should ensure that the data on the civil service system is available, of high quality and widely published.
- 9) The Assembly should strengthen the preventive functions of the ACA in order to support the development of civil service integrity.

The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. A substantially improved legislative framework on the one hand, but a severe lack of data on outcomes on the other



Note: The * marks where points have been deducted because data was not available, not provided, or of poor quality.

Analysis

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

Overall, the value for the indicator 'Adequacy of the scope of public service' is 4. The value is similar to 2017 but reflects a considerably amended legislative framework.

Indicator 3.1.1 - Adequacy of the scope of public service						
This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service, and whether it is consistently applied across the public sector.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Clarity in the legislative framework of the scope of the civil service					1/2	-1
2. Adequacy of the horizontal scope of the public service					4/6	-1
3. Comprehensiveness of the material scope of civil service legislation					2/2	=
4. Exclusion of politically appointed positions from the scope of the civil service					2/2	=
5. Clarity of the lower division line of the civil service					1/1	+1
Total					10/13	-1

Significant changes have been introduced to the civil service legislation since the 2017 monitoring report. The reform package of three laws adopted in 2019 (The LPO, LSPS and LOFSAIA)¹⁷⁶ aimed to create a unified merit-based civil service system and establish common principles of employment across the public sector. However, the enforcement of the package was delayed by legal arguments resulting in two Constitutional Court decisions with wide-scale impact. First, the Constitutional Court judgement, which declared a number of articles of the LPO non-compliant with constitutional provisions due to their interference with the functional and organisational autonomy of eight independent institutions, has left the application of the LPO open in their case¹⁷⁷. Second, because the Constitutional Court declared the LSPS invalid in its entirety, salaries are still regulated by the 2010 Law on the Salaries of Civil Servants¹⁷⁸.

While the implementation of the LPO was suspended until the final Constitutional Court decision¹⁷⁹, the Law on Civil Service (CSL) continued to be applied¹⁸⁰. Consequently, there were two legislative frameworks in force in the assessment year – the CSL until June 2020 (when the Constitutional Court issued the final decision on the LPO and the suspension ended) and the LPO thereafter. The following analysis focuses on the system created by the LPO and its secondary legislation. The LPO establishes

¹⁷⁶ Law No. 06/L-114 on Public Officials (LPO), Law No. 06/L-111 on Salaries in the Public Sector (LSPS), and Law No. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies (LOFSAIA).

¹⁷⁷ The Constitutional Court Judgement in Case No. K0203/19 from 30 June 2020. The eight institutions are: the Judicial Council; the Prosecutorial Council; the Constitutional Court; the Ombudsperson Institution; the Auditor-General; the Central Election Commission; the Central Bank of Kosovo and the Independent Media Commission. The estimated number of civil servants in the eight institutions is over 3 000 employees (MIA, draft Civil Service Report 2020, p. 9).

¹⁷⁸ Constitutional Court Judgment in Case No. KO219/19 from 13 July 2020.

¹⁷⁹ Constitutional Court Decision on Extension of Interim Measure in Case No. K0203/19 from 27 April 2020.

¹⁸⁰ Law No. 03/L-149 on the CSL.

the civil service as a special component in the wider system of public employment¹⁸¹. Compared to the CSL, both the horizontal and the vertical scopes of the civil service have changed.

Table 1. Number of public officials working for the central government (Office of the Prime Minister, ministries and agencies) at the end of 2020, categorised according to the CSL¹⁸²

Functional category	Number of public officials
Senior management level	66
Management level	1 289
Professional level	5 577
Technical-administrative level	1 579
Total	8 511

Source: Ministry of Internal Affairs, draft Civil Service Report 2020, p. 11.

The scope is mostly clear and defined in a detailed way in the LPO. With regard to the horizontal scope, most of the core institutions of state are covered. Police, customs administration, judges and prosecutors are explicitly outside the scope of the LPO¹⁸³. Professional employees of the diplomatic service and the correctional service belong to the category of civil servants with special status whose employment is regulated by both the LPO and special laws¹⁸⁴. The Ombudsperson Institution and the Auditor-General are among the eight independent institutions in the legal vacuum created by the Constitutional Court judgement. In practice, it is unclear whether the entire LPO is not applicable to them or just the provisions listed by the Constitutional Court. Overcoming the uncertainty demands legislative action by the Assembly, which has not taken place yet¹⁸⁵.

With regard to the vertical scope, civil service covers positions from the professional officers to the secretaries-general¹⁸⁶. Political officials ('cabinet employees') are defined as a separate category of public officials, exempted from the civil service¹⁸⁷. Administrative/technical and support staff are also outside its scope and employed under the Labour Law but covered by regulations on public officials¹⁸⁸. Secondary legislation provides the methodology for job classification¹⁸⁹. The relevant regulation foresees the use of a job catalogue that had not yet been adopted at the time of the assessment. While the vertical scope of

¹⁸¹ LPO, Article 2, point 3.

¹⁸² The estimated number of civil servants together with independent agencies was 9 800 at the end of 2020. Numbers according to the LPO were not available. Under the LPO, the technical-administrative positions do not belong to the civil service (MIA, draft Civil Service Report 2020, p. 10-11).

¹⁸³ LPO, Article 3, point 3.

¹⁸⁴ LPO, Article 4, point 1.

¹⁸⁵ In the second quarter of 2021, the process was only at the very beginning, with a working group established by the Government and a couple of meetings held.

¹⁸⁶ LPO, Article 2, point 3.

¹⁸⁷ LPO, Article 2, point 5.

¹⁸⁸ LPO, Article 2, point 6.

¹⁸⁹ Regulation 26/2020 on the Classification of Jobs in the Civil Service.

the civil service is well defined at the upper levels, without the catalogue, the difference between civil service administrative officers in the professional category and administrative staff under the category of 'administrative and support staff' at the lower levels of the civil service is potentially unclear.

The implementation of the amended scope and the new categorisation relies on LOFSAIA that foresees determining the internal organisation of institutions together with the systematisation of jobs¹⁹⁰. This process is lagging seriously behind as only a few institutions have completed the systematisation exercise. Delayed implementation of LOFSAIA is holding back recruitment and other types of appointments in accordance with the rules of the LPO and has the potential to delegitimise the implementation of the unified civil service system foreseen in the LPO.

Conclusion

A comprehensive legislative framework with a substantial primary law (the LPO) exists for the civil service. The scope of civil service is adequate and clearly defined, but there is a need for the Assembly to react to the Constitutional Court decision on the LPO. The LPO creates the potential for a systemic transformation and institutionalisation of a merit-based civil service system. For it to materialise, implementation is crucial.

¹⁹⁰ LOFSAIA, Article 28, point 1.

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

Overall, the value for the indicator 'Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service' is 3. The indicator value is the same as for 2017 but represents a slight deterioration in policy monitoring with some progress in the availability and use of data.

Indicator 3.2.1 - Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service						
This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Establishment of political responsibility for the civil service				2/2	=	
2. Quality of public service policy documents				3.5/4	=	
3. Implementation and monitoring of public service policy				1/4*	-1	
4. Right balance between primary and secondary legislation				2/2	=	
5. Existence of a central, capable co-ordination body				2.5/4	=	
6. Professionalism of HRM units in civil service bodies				0/2	=	
7. Existence of a functional HR database with data on the civil service				2/4	=	
8. Availability and use of data on the civil service				2/5*	+1	
Total				15/27	=	

Note: *Data not available or provided.

The enforcement of the LPO in July 2020 brought an immediate need to implement the legislative framework provided in the LPO and its secondary regulation¹⁹¹. The ambition to apply unified principles across all public sector employment and the introduction of career system elements to the civil service made the implementation process especially challenging in terms of central co-ordination. The DMPO of the MIA has been given extensive responsibilities to fulfil this role and a clear mandate to act as the central co-ordinating institution¹⁹². Political responsibility for the civil service is established at the level of cabinet minister¹⁹³.

¹⁹¹ The LPO lists more than 30 secondary acts, whereas in practice a smaller number covering several topics is needed. According to the assessment of the Director of the DMPO, about 95% of the legislation needed to implement the LPO has been completed (interview, 15 April 2021).

¹⁹² LPO, Article 11 provides the list of DMPO core tasks. The Ministry of Public Administration and the MIA were merged under Regulation 05/2020 on the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries from 19 February 2020.

¹⁹³ LPO, Article 10, point 2 requires that the Government assigns one of its members for 'general administration of policies on public officials'.

However, the implementation of the LPO has been hampered by legal uncertainties, constant political instability (including the snap elections in February 2021), and the COVID-19 pandemic. Despite the enforcement of the LPO in July 2020, its implementation is only at the very beginning. The situation has been complicated by lack of capacity at the DMPO. The Department does not have sufficient human resources to co-ordinate the implementation of the new legislative framework. Instead of the 4 divisions and 30 positions foreseen, it has been operating with 17 staff members inherited from the former Department of Civil Service Administration of the Ministry of Public Administration¹⁹⁴.

The HRM units of the individual state administration institution lack professionalism and are mostly focused on administrative issues. The LPO and LOFSAIA prescribe a uniform status of HRM units across the civil service, reporting directly to the secretary-general or equivalent¹⁹⁵. Very little co-ordination and guidance besides secondary legislation has been provided to HRM units for the implementation of the LPO. Methodological materials, manuals etc. were foreseen, but are not available. The DMPO has capacity only for ad hoc consulting on specific issues. The HRM units lack a professional forum within which to discuss civil service HRM issues. In 2020, only one meeting between the DMPO and the HRM units took place online to discuss the legislative changes brought by the enforcement of the LPO.

With regard to the policy framework, the civil service is one of the three pillars of the Strategy on the Modernisation of Public Administration 2015-2020 (PAMS). The Action Plan for Implementation of PAMS 2018-2020 provided specific activities with quantifiable targets and clear deadlines¹⁹⁶. Monitoring reports were produced and publicly available for 2018 and 2019 that indicated a considerable implementation gap. In 2019, only 4 out of 19 planned activities had been implemented, mostly due to the political instability¹⁹⁷. The monitoring report for 2020 was not available.

Substantial problems with the availability and adequacy of civil service data were revealed. Despite the fact that the DMPO's responsibility to gather, analyse and publish data is supported by the LPO providing for its right to request and receive information from the public institutions, civil service statistics for the assessment year were largely missing, incomplete or contradictory¹⁹⁸. A critical role for the HRMIS as the central electronic information system for all public institutions is established¹⁹⁹. The HRMIS includes data on all employed civil servants and HRM units use the system for administrative procedures (e.g. the administration of vacancies). However, it does not yet allow for quick reporting, is not interoperable with the payroll system, is not updated in real time and has gaps in data quality²⁰⁰. The problems were

¹⁹⁴ The internal structure, functions and positions of the DMPO are fixed under Regulation 01/2021 on the Internal Organization and Systematization of Jobs in the Ministry of Internal Affairs. (Information on the current staff from interview with the Director of the DMPO, 15 April 2021).

¹⁹⁵ LPO, Article 14, point 2 LOFSAIA, Articles 18 and 23. However, there is still confusion around the implications of introducing this requirement in practice. (Interviews with HRM unit heads, 28-29 April 2021).

¹⁹⁶ The Government adopted the Action Plan 2021 for the Implementation of the Strategy on the Modernisation of Public Administration 2015-2020 on 08 June 2021 (Decision No. 15/15).

¹⁹⁷ Report on the Implementation of the Public Administration Reform for 2019: Public Administration Modernization Strategy (PAMS 2015-2020), pp. 5-7 and 16.

¹⁹⁸ LPO, Article 11, point 1.7.

¹⁹⁹ LPO, Article 17, point 2.

²⁰⁰ The 2020 problems with data derived partly from the legislative change and the enforcement of the LPO in the middle of the year. As noted in the MIA's draft Civil Service Report 2020, p. 7: 'Because the institutions of state administration have not completed the internal organisation in accordance with Law No. 06/L-113, and have not defined the status of public officials, the data presented in this report is incomplete, and it should be noted that the following reports may have deficiencies in data accuracy until these two processes are completed'.

aggravated by the COVID-19 pandemic, which interfered with the usual data-provision routines and affected the quality of data in the HRMIS²⁰¹.

The competences and mandate of the IOBSC as the oversight institution were reinforced from 2018 by the new law²⁰². In 2019, the Constitutional Court declared some articles of the law concerning the oversight of senior appointments unconstitutional, leaving the IOBSC with the tasks of solving appeals and monitoring²⁰³. However, due to the vacant board positions, the IOBSC was inquorate and not functioning for most of 2019 and 2020²⁰⁴. There is an overlap in the functions of the DMPO and the IOBSC following the enforcement of the LPO with regard to the state administration institutions, demanding close co-operation between them²⁰⁵. Due to the capacity problems, neither of the institutions was able to carry out systematic inspections in the assessment year²⁰⁶.

Conclusion

The implementation of the LPO is only at the very beginning and constitutes a major challenge. The DMPO, as the co-ordinating institution, is not assured of having the necessary resources. The existing institutional arrangement does not enable consistent and effective human resource management practices across the civil service. Civil service co-ordination requires a clear strategy for the gathering, analysis and dissemination of civil service data, including development of the HRMIS, to support the functioning of a unified civil service system.

²⁰¹ Interview with the Director of the DMPO, 20 April 2021.

²⁰² Law No. 06/L-048 on the Independent Oversight Board for the Civil Service of Kosovo.

²⁰³ Constitutional Court decision from 2 May 2019.

²⁰⁴ From 21 January 2019 to 8 October 2020. Due to the lack of a quorum, 844 complaints carried over from 2019 and the IOBSC had to review 1 288 complaints in 2020. It was able to make a decision on only 241 of them and 1 047 remained unresolved within the legal deadline (IOBSC, draft Annual Report 2020, p. 32). In July 2021, the Assembly dismissed all the five existing members of the Board <https://kosovapress.com/en/members-of-the-iobcsk-are-dismissed/>.


²⁰⁵ LPO, Article 11, point 1.2 states that the DMPO 'supervises implementation of the Law on public officials in state administration institutions'. The Law on the IOBSC, Article 6, point 1.3 provides for the monitoring of 'public administration institutions employing civil servants regarding the implementation of the rules and principles of civil service legislation' as the function of the IOBSC.

²⁰⁶ IOBSC, draft Annual Report 2020, p. 29; interview with the Director of the DMPO, 20 April 2021.

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

Overall, the value for the indicator 'Meritocracy and effectiveness of recruitment of civil servants' is 2. Despite improvement in the legislative framework, the indicator has deteriorated compared to 2017 due to the lack of evidence on the application of merit principles in practice.

Overall, the value for the indicator 'Merit-based termination of employment and demotion of civil servants' is 3. The value of the indicator is the same as in 2017.

Indicator 3.3.1 - Meritocracy and effectiveness of recruitment of civil servants						
<p>This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job seekers and performance of the public sector.</p> <p>This indicator measures only external recruitment. The indicator on merit based recruitment and dismissal of senior civil servants covers recruitment and promotion to senior managerial positions, and the indicator on professional development covers promotions to other positions.</p>						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021		Change from 2017	
Legal framework and organisation of recruitment						
1. Adequacy of the legislative framework for merit based recruitment for civil service positions			18/18		+4	
2. Application in practice of recruitment procedures for civil service positions			3/18*		-10	
Performance of recruitment practices						
3. Time required to hire a civil servant			0/2*		-2	
4. Average number of eligible candidates per vacancy			0/4*		=	
5. Effectiveness of recruitment for civil service positions (%)			0/4		=	
6. Retention rate of newly hired civil servants (%)			0/4*		-4	
Total			21/50		-12	

Note: *Data not available or provided.

The LPO introduces a major change from the decentralised filling of positions to a centralised career-based system with limited external recruitment. External recruitment to the professional (entry) category is foreseen²⁰⁷. Competition is established as the procedure to fill any vacant position (through either internal or external recruitment). The principles of merit, equal opportunities, non-discrimination and professionalism are declared in the LPO²⁰⁸. The procedural rules are clear, demanding professional composition of selection committees and a mandatory combination of written and verbal elements to

²⁰⁷ LPO, Articles 6 and 34.

²⁰⁸ LPO, Article 6, p. 1 and p. 2.

assess candidates²⁰⁹. Elaborate regulation for staff planning is provided. The MIA is in charge of developing and adopting a general staff plan²¹⁰.

So far, no external recruitment has been carried out since the coming into force of the LPO. Therefore, the implementation of the new framework is still to be seen in practice²¹¹. The explanations provided point to the need for a process of determining the internal organisation of institutions foreseen in LOFSAIA. The HRMIS electronic recruitment application, together with the supporting materials and the bank of questions for written testing, were in development at the time of the assessment. There was a need to prepare a testing room for the written testing of candidates²¹². The public interface of the system – the central government web portal with all the civil service announcements, including transfers – was already functional²¹³.

In 2020, a total of 1 259 jobs were planned for recruitment in the civil service, of which only 261 recruitments (21%) were realised. At the central level, of the total 708 jobs planned, 100 recruitments (30%) were realised²¹⁴. All the recruitments were carried out in the period January-June, when the CSL still applied. Nevertheless, the problem was not only apparent in 2020 but also in 2019, revealing wider difficulties with the ability of the civil service to fill vacant positions (Figure 1)²¹⁵. Moreover, in 2019, competitions were the primary issue for complaints submitted to the IOBSC (51.65%, 405 complaints)²¹⁶. A limited number of recruitments have taken place at the municipal level.

²⁰⁹ LPO, Article 34, point 12; Regulation 16/2020 on Admission and Career in the Civil Service, Articles 17 and 18. Commission members are appointed from among non-political officials, and the Commission has a two-year mandate. The LPO, Article 34, point 9 provides for a combination of three elements to be evaluated – CV, written test and oral interview. The written test has the highest importance (up to 70 points out of 100).

²¹⁰ LPO, Article 15. Evidence for the existence and use of a general civil service staff plan was not provided.

²¹¹ Interview with the Director of the DMPO, 15 April 2021. No new staff have been appointed to the civil service since July 2020. Until the conclusion of this process, it is presumed that vacant positions are being filled by lateral transfers. A number of transfers have already been completed.

²¹² Interview with the Director of the DMPO, 15 April 2021.

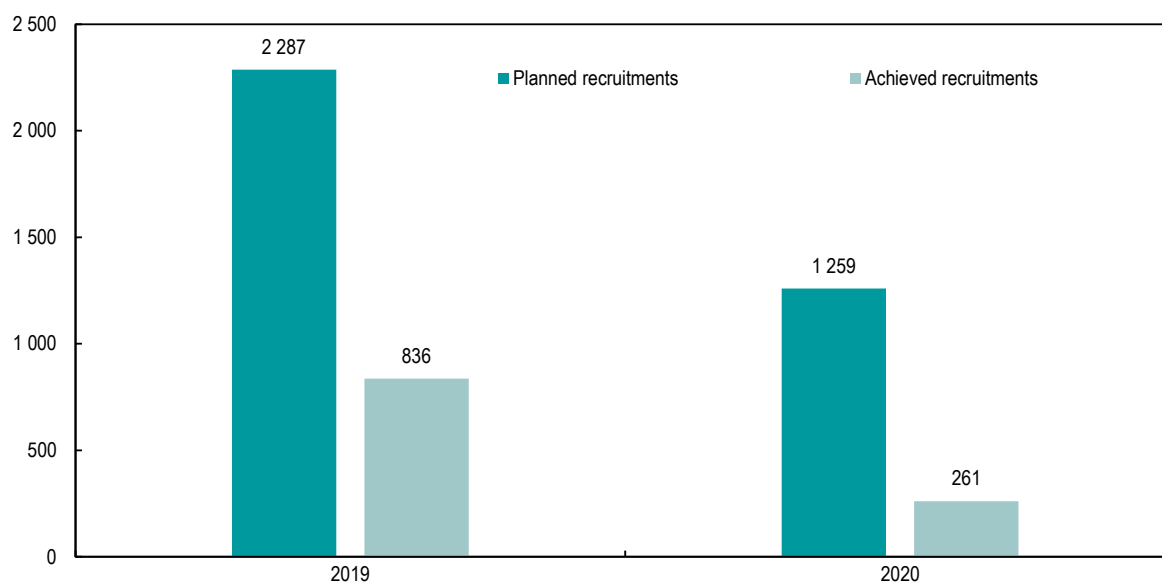
²¹³ <https://konkursi.rks-gov.net/>. The portal allows vacancies to be sorted by category, institution and date of announcement, but not according to the position or location.

²¹⁴ MIA, draft Civil Service Report 2020, p. 17. There is a significant problem with data on recruitment. Only two of the five sample institutions provided the recruitment files. No data on the number of eligible candidates per vacancy was available.

²¹⁵ MIA, draft Civil Service Report 2020, pp. 17-18.

²¹⁶ IOBSC Report 2019, p. 10. In 2020, the primary issues for complaints were employment contracts (28.38%, 126 complaints) and pay (22.75%, 101 complaints). IOBSC, draft Annual Report 2020, p. 9.

Figure 1. Recruitments in the civil service, 2019 and 2020



Source: Ministry of Internal Affairs, draft Civil Service Report 2020, p. 22.

The LPO makes an exception for the beneficiaries of international scholarship schemes, who do not need to enter the system through competitions²¹⁷. The MEI used to be responsible for the so-called ‘young cells’ scheme before the transfer of the responsibility to the DMPO. In 2020, the DMPO managed to systematise and appoint 20 scholarship holders out of a total of 49 who were on the waiting list²¹⁸. The scheme is a promising instrument for attracting young talent to the civil service, but its implementation needs further institutionalisation and co-operation between the state administration institutions in order to succeed.

²¹⁷ LPO, Article 36, p. 2. Detailed rules are provided in Government Regulation 01/2019 on the Beneficiaries of Scholarship Schemes, which was one of the earliest LPO by-laws adopted.

²¹⁸ MIA, draft Civil Service Report 2020, p. 46. According to the interview with the Director of the DMPO (20 April 2021), in 2021 an additional 10 beneficiaries were appointed.

Indicator 3.3.2 - Merit-based termination of employment and demotion of civil servants

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

Overall 2021 indicator value 0 1 2 **3** 4 5

	Points 2021	Change from 2017
Legal framework and organisation of dismissals and demotions		
1. Objectivity of criteria for termination of employment in civil service legislation	6/6	=
2. Objectivity of criteria for demotion of civil servants in the legislative framework	2/2	=
3. Right to appeal dismissal and demotion decisions to the courts	2/2	=
Fairness and results of dismissal practices		
4. Dismissal decisions confirmed by the courts (%)	0/4*	=
5. Implementation of court decisions favourable to dismissed civil servants (%)	0/4*	=
Total	10/18	=

Note: *Data not available or provided.

Legislation establishes clear regulation covering individual dismissals from the civil service. The grounds for termination of employment include loss of citizenship, retirement, conviction for a criminal offence, incapacity to work, early retirement, continued conflict of interest and 'other'²¹⁹. Dismissal for inadequate performance follows two 'unsatisfactory' evaluations for two consecutive years of performance appraisals. Dismissal due to restructuring or closure of an institution is possible if a civil servant refuses to transfer. The LPO does not foresee demotion. However, there is a possibility of permanent transfer to a position of lower category, if the employee consents, to avoid a permanent conflict of interest²²⁰. As there are several classes of positions within a category, demotion through transfer within a category is possible in practice.

The main reasons for the 276 cases of termination of employment in the government ministries and agencies in 2020 were reported to be voluntary departure (67 cases) and regular retirement (126 cases)²²¹. There is no information on dismissals due to inadequate performance. In 2020, 5.86% of complaints (26 complaints) submitted to the IOBSC were related to the termination of employment, and in 2019 6.76% of complaints (53 complaints) were for the same reason. Termination was not among the primary issues for complaints²²².

Conclusion

The new legislative framework brings a major change to the civil service system with external recruitment limited to the professional (entry) category. Competition is established as the underlying procedure for filling vacancies, but no new recruitments have taken place since July 2020. The application of the

²¹⁹ LPO, Articles 59-63.

²²⁰ Regulation 14/2020 on the Transfer of Civil Servants, Article 12, point 1.


²²¹ MIA, draft Civil Service Report 2020, p. 23. Data according to CSL.

²²² IOBSC draft Annual Report 2020, p. 9. IOBSC report for 2019, p. 10. No data was provided by the national administration on dismissal decisions confirmed by the courts and on their implementation.

framework is yet to be seen in practice. The recruitment and staff planning system needs competent management to ensure the smooth and professional operation of procedures to fill vacancies.

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

Overall, the value for the indicator 'Merit-based recruitment and dismissal of senior civil servants' is 3. The indicator value has risen compared to 2017 due to a considerable improvement in the legislative framework. At the same time, there is no confirmation yet of the framework's implementation in practice. A number of sub-indicators focusing on the practical evidence deteriorated due to the missing data.

Indicator 3.4.1 - Merit-based recruitment and dismissal of senior civil servants						
This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.						
Recruitment and dismissal in senior positions is treated under a separate indicator due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility of political influence in appointments to such positions.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
Legal framework and organisation of recruitment and dismissal of senior civil servants						
1. Appropriateness of the scope for the senior civil service in legislation				3/3	=	
2. Adequacy of the legislative framework for merit based recruitment for senior civil service positions				15/15	+5	
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework				4/4	+4	
4. Legislative protection of the rights of senior civil servants during demotion				2/2	=	
Merit-based recruitment and termination of employment in senior civil service positions in practice						
5 Application in practice of recruitment procedures for the senior civil service				1.5/9*	+1.5	
6. Ratio of eligible candidates per senior level vacancy				0/4*	=	
7. Effectiveness of recruitment for senior civil service positions (%)				4/4	+4	
8. Women in senior civil service positions (%)				0/4*	=	
9. Stability in senior civil service positions (%)				0/4*	-4	
10. Dismissal decisions confirmed by the courts (%)				0/4*	-4	
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)				0/4*	-4	
Total				29.5/57	+2.5	

Note: *Data not available or provided.

With the LPO in force, a major change has taken place in the system at the SCS level. A detailed new regulatory framework has been established aiming to minimise political influence on SCS recruitment and to ensure it is based on merit and professionalism. The senior managerial category includes the positions

of secretary-general, executive director and deputy director of an executive agency, and equivalent²²³. The LPO abolishes temporary contracts and introduces a centralised career-based system. SCS positions are filled by internal competition in the first instance²²⁴. Evaluation of candidates is performed by the National Admission Commission (NAC), which has a very short, two-year-only mandate²²⁵. The LPO prescribes a professional composition of the NAC, whose members are appointed by the Government following their proposal by the minister responsible for public administration. The evaluation procedure includes an electronic test and an oral test/interview. Up to three candidates are recommended to the immediate supervisor for final selection²²⁶.

The legal grounds for the termination of employment of senior civil servants are mostly the same as for the other civil servants, with a few specificities. Importantly, a senior civil servant who joins a political party will be dismissed²²⁷. Furthermore, senior civil servants will receive an evaluation of 'unsatisfactory' 'where their institution receives an 'adverse' opinion or 'disclaimer of opinion' from the Auditor-General's report in two consecutive years within their mandate'²²⁸. How this clause will be applied in practice is not yet known.

No appointments to SCS positions had been made through the competition process under the LPO at the time of the assessment. The existing recruitment practices under the CSL could not be assessed because of unavailability of data²²⁹. In implementing the new legislative framework, the national administration has an opportunity to rely on the co-operation project with the British Embassy in Pristina focusing on the recruitment to senior public positions but covering the SCS only partially. Over the years the project has developed substantial competence on senior-level admission has developed, and methodologies reflecting the specific national context have been worked out.²³⁰ The sustainability of these achievements can be ensured through close co-operation between the national administration, the Embassy and the project implementation partners.

A permanent and professional procedure still needs to be institutionalised also for those senior civil servants who have served their existing terms. According to the CSL, senior civil servants were appointed for a three-year term²³¹. Under the LPO, they are appointed for a term of four years, which can be renewed

²²³ LPO, Article 33, point 2.1.

²²⁴ LPO, Article 40, point 1. Only if the internal competition fails, a second competition procedure is organised that is open to external candidates. The LPO does not allow for acting senior civil servants. In the case of a second external competition, a substitute can be appointed from within the institution (Article 40, point 11).

²²⁵ LPO, Article 41. Regulation 15/2020 on the Admission, Evaluation and Discipline of Senior Management Employees foresees detailed regulations for composing the selection committees and ensuring the professionalism of their activities, including the requirement for committee members not to have belonged to any political party (Article 9, point 2.2). According to the information obtained in the meeting with the Director of the DMPO (15 April 2021), the NAC exists and has been formed according to the principles of the LPO, but its composition needs to be changed because of turnover among the secretaries-general engaged. The new composition of the NAC was established in August 2021.

²²⁶ LPO, Article 40.

²²⁷ LPO, Article 61, point 1.6. The LPO, Article 22, point 3 prohibits membership of political parties among senior civil servants.

²²⁸ Regulation 15/2020, Article 21, point 6.6.

²²⁹ Sample institutions were asked to provide examples of SCS recruitment files. No files were provided. Data was also not available on the number of eligible candidates per senior-level vacancy, women in SCS positions, stability in SCS positions, dismissal decisions confirmed by the courts and their implementation.

²³⁰ See: <https://www.kosovoselection.org/overview>. The current Memorandum of Understanding between the Government and the Embassy was signed in June 2021 for a period of three years. It is understood that there will be no extension of this project beyond March 2024, therefore the project features an important sustainability component.

²³¹ CSL, Article 15, point 3.

once²³². As most of the mandates of senior civil servants have expired, a considerable transition problem between the two legislative frameworks appeared in early 2021, with most ministries led by *de facto* acting secretary-generals (with no clear legal basis for it) and the DMPO facing the challenge of finding new positions for those who had completed their terms²³³.

Conclusion


The LPO introduces a new detailed legislative framework aiming to prevent political influence being exerted over the SCS. No competition process has been carried out yet under the LPO. The MIA has a crucial role in ensuring implementation of the new framework and merit-based process. The quality of SCS recruitment and prevention of political influence will depend on the implementation of the rules in practice.

²³² LPO, Article 42, point 4. At the end of the term(s), the Admission Unit is required to appoint the civil servant to a middle-management category position and then to a professional category position (Article 42, point 7).

²³³ 95% of secretary-generals had completed their terms according to the interview with the Director of the DMPO, 15 April 2021. (MIA, draft Civil Service Report 2020, p. 49.)

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

Overall, the value for the indicator 'Fairness and competitiveness of the remuneration system for civil servants' is 1. The indicator value has deteriorated by two in comparison to 2017 due to the lack of a proper legislative framework and the absence of important data.

Indicator 3.5.1: Fairness and competitiveness of the remuneration system for civil servants			
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the system in practice.			
Overall 2021 indicator value  since 2017	0	1	2 3 4 5
		Points 2021	Change from 2017
Legal framework and organisation of the remuneration system			
1. Legal obligation to base salaries on job classifications		2/2	=
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation		0/2	=
3. Availability of salary information		0/3	=
Performance and fairness of the remuneration system in practice			
4. Fairness in the allocation of base salaries in the job classification system		0/4*	-2
5. Base salary compression ratio		0/2*	-2
6. Managerial discretion in the allocation of bonuses		2/2	=
7. Motivational character of bonuses (%)		1/2	=
8. Competitiveness of civil service salaries (%)		0/3*	-3
Total		5/20	-7

Note: *Data not available or provided.

The new salary law was part of the comprehensive legislative package adopted in 2019. Because the June 2020 decision of the Constitutional Court declared the LSPS unconstitutional in its entirety, the element of salaries is still regulated by LSCS and its by-law on allowances²³⁴. The requirement to base salaries on job classification is established in the LSCS²³⁵. However, the classifications of positions in the LPO and in the LSCS differ²³⁶. The adoption of a new by-law on the classification of jobs abrogated the existing regulation on the classification²³⁷. In the abrogated regulation, positions were linked to the salary

²³⁴ Law No. 03/L-147 on Salaries of Civil Servants. Regulation 33/2012 on Allowances in Salaries and Other Compensations for Civil Servants.

²³⁵ LSCS, Article 6, point 1.

²³⁶ LPO, Article 33; LSCS, Article 6.

²³⁷ Regulation 05/2012 on the Classification of Jobs in Civil Service was abrogated with the Regulation 26/2020 on the Classification of Jobs, Article 35.

grades and the rules for the calculation of basic salary were provided as well as the coefficients²³⁸. Transitional provisions currently guide the calculation of salaries²³⁹.

Altogether, the existing legislative framework fails to provide the necessary salary element for the civil service system. Salaries are not transparent and the procedures to allocate basic salary do not ensure that the principles of merit, fairness and equal treatment are observed. Although legislation does not foresee bonuses, there is an important role for allowances²⁴⁰. The problems are recognised in the 2020 civil service report by the MIA, which concludes that the system 'has resulted in significant differences in the basic salary for equal positions in public institutions', it is 'fragmented and inefficient' and there are 'major inequalities in the distribution of salaries and bonuses'²⁴¹. The problems of the system were acknowledged in the 2017 monitoring report, concluding that there is 'no guarantee of equal pay for equal jobs for base/position salaries'²⁴².

The situation is aggravated by the lack of data. No official analysis on civil service salaries is available. Data on average total salaries, salary levels etc. is missing. No numerical information on civil service salaries is provided in the annual civil service report²⁴³. There is no central web page with information on civil service salaries. Only information on the coefficients is provided in the job announcements, but this is not sufficient to allow the candidates and the general public to understand the salaries.

The LPO establishes a unified civil service system that presumes a common salary system. Currently there is no unified salary arrangement, the LSCS is only partially implemented and there are contradictions with the LPO. The lack of a proper salary law will become an impediment to the development of the whole civil service system. Its absence will also limit the co-ordination capacity of the DMPO, which is responsible for designing, preparing and supervising the implementation of policies on salaries²⁴⁴. The working group for drafting a new salary law was established by the Government, but its work has not progressed due to the pandemic and political uncertainty²⁴⁵.

²³⁸ Regulation 05/2021, Articles 26-27.

²³⁹ Regulation 26/2020, Article 31, as a transitional provision provides that 'until the approval of the Regulation on internal organisation and systematisation of jobs, which define the class and group to which a job position belongs, and the relevant Law on Salaries, the basic salary for civil servants is calculated according to the equivalence of the old system with the new system of classification determined by a decision of the Government of Kosovo, upon the proposal of the ministry responsible for public administration and the ministry responsible for finance'.

²⁴⁰ No official data on the share of allowances was provided, but their considerable share was confirmed in the interview with the Director of the DMPO (20 April 2020). The problems of the existing salary system have been brought out also by the Group for Legal and Political Studies in its 2021 analysis 'The new law on salaries in Kosovo: what is missing, and what is needed to ensure an equal, efficient and non-discriminatory salary policy', <http://www.legalpoliticalstudies.org/the-new-law-on-salaries-in-kosovo-what-is-missing-and-what-is-needed-to-ensure-an-equal-efficient-and-non-discriminatory-salary-policy/>.

²⁴¹ MIA, draft Civil Service Report 2020, p. 35. Both in 2019 and 2020, compensation was the second most common issue for complaints submitted to the IOBSC – 22.75% (101 complaints) in 2020 (IOBSC, draft Annual Report 2020, p. 29), and 12.37% (97 complaints) in 2019 (IOBSC annual report 2019, p. 10).

²⁴² OECD (2017), *Monitoring Report: Kosovo*. OECD, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>, p. 73.

²⁴³ MIA, draft Civil Service Report 2020, pp. 35-36.

²⁴⁴ LPO, Article 11, point 1.3.

²⁴⁵ Interview with the Director of the DMPO, 15 April 2021.

Conclusion

The current civil service remuneration system, based on the LSCS, does not ensure there is comprehensiveness, transparency, fairness and equal treatment. Drafting of the new law on salaries has only started. The analysis of civil service salaries and establishment of channels for disseminating the salary information are deficient. Comparison of remuneration within the system and with the private sector is difficult due to the lack of reliable data.

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

Overall, the value for the indicator 'Professional development and training for civil servants' is 3. The value is the same as in 2017, but represents slight improvement in legislation-based sub-indicators and slight deterioration in implementation-based sub-indicators.

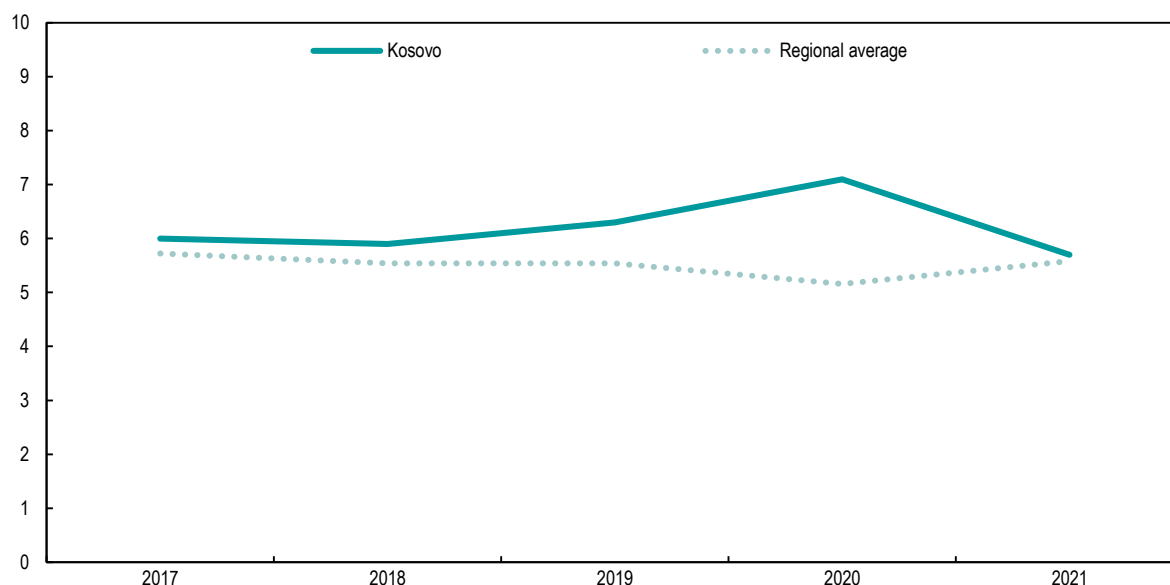
Indicator 3.6.1 - Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Legal framework and organisation of professional development						
1. Recognition of training as a right and a duty of civil servants				2/2	=	
2. Co-ordination of the civil service training policy				3/3	=	
3. Development, implementation and monitoring of training plans				2/3	=	
4. Evaluation of training courses				1/2	-1	
5. Professionalism of performance assessments				3/4	=	
6. Linkage between performance appraisals and measures designed to enhance professional achievement				4/4	=	
7. Clarity of criteria for and encouragement of mobility				2/2	+1	
8. Adequacy of legislative framework for merit based vertical promotion				2/2	+1	
9. Absence of political interference in vertical promotions				0/2*	-2	
10. Right of civil servants to appeal against performance appraisal decisions				2/2	=	
11. Right of civil servants to appeal mobility decisions				2/2	=	
Performance of professional development practices						
12. Training expenditures in proportion to the annual salary budget (%)				0/4*	=	
13. Participation of civil servants in training (%)				0/5*	=	
14. Perceived level of meritocracy in the public sector (%)				3/5	=	
Total				26/42	-1	

Note: *Data not available or provided.

The civil service system introduced with the LPO relies on internal mobility of staff and has a direct impact on the role of training, performance appraisal and career progression. The professional development of civil servants takes place in a more extensively regulated environment than before. The new legislative

framework provides an opportunity to increase the perceived meritocracy in the public sector²⁴⁶. Adoption of the LPO was accompanied by a significant positive change in perceptions, especially among people working in the public sector, but non-implementation of the law has already been reflected in an even larger drop (Figure 2). In this context, the central co-ordination of personnel development and professional civil service HRM both become more crucial than before.

Figure 2. Perceived meritocracy in the public sector in the Western Balkans, 2017 - 2021



Note: Respondents were asked to what extent they agree with the following statement on a scale from 1 to 10: 'In the public sector most people can succeed if they are willing to work hard'.

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer>).

The LPO provides a detailed legislative framework for mobility within the system. Transfer within category is the first step to fill a vacant position in the professional, lower- and middle-management categories²⁴⁷. Promotion to a lower- or middle-management category can take place only where the vacant position has not been filled by transfer. The procedure for promotion is competitive and applies the rules foreseen for admission through competitions²⁴⁸. While transfers within category are administered centrally by the DMPO, an ad hoc promotion commission is appointed by the chief administrative officer of the institution. In addition to promotion and transfer within category, three types of transfers as a decision of the employing institution are foreseen²⁴⁹. The first transfers within category had been completed by the time of assessment. No promotions had been carried out yet under the new system²⁵⁰. The meritocracy of the existing promotion practices could not be assessed, as the respective data was not submitted.

With the introduction of a civil service system that relies on hiring within the system, the importance of performance appraisals has grown. Performance is assessed against individual job-related objectives and

²⁴⁶ Average 5.7 of 10 for people working in the public sector; 4 for the whole population. Balkan Barometer 2021.

²⁴⁷ LPO, Article 38, point 1. Detailed regulations in Regulation 16/2020 on Admission and Career in the Civil Service.

²⁴⁸ LPO, Article 39.

²⁴⁹ LPO, Articles 52-54: temporary transfer, permanent transfer, transfer in case of closure or restructuring.

²⁵⁰ Information from the interviews with the Director of the DMPO (15 April 2021) and heads of HRM units (28-29 April 2021).

there must be an interview between the civil servant and their supervisor. The focus of appraisals is on rating. Appraisals awarding the level of 'satisfactory or sufficient' or 'unsatisfactory or insufficient' will lead to the obligation to attend mandatory training and restrictions to mobility²⁵¹. After two 'unsatisfactory' evaluations for two consecutive years, the civil servant is dismissed²⁵². This kind of system allows the use of appraisal evidence in hiring decisions but may introduce incentives for the supervisors to inflate the appraisal results. In 2020, 65% of civil servants were evaluated as 'very good' or 'excellent'²⁵³.

Training is established as a right and a duty of civil servants²⁵⁴. Mandatory modules for training are foreseen in the case of probation or promotion²⁵⁵. The central responsibility for training, including the training needs analysis, is shared by the DMPO and the KIPA²⁵⁶. The KIPA is devising and implementing central training courses that are financed from the state budget and free for the participants. The courses mostly target professional and middle-management level civil servants (Figure 3). However, a strategic view of central training is lacking²⁵⁷. The training plan is a technical document lacking background information (for example, on training needs analysis) and strategic aims. There is no document that would bring together training needs analysis, the training plan, its implementation and analysis²⁵⁸.

²⁵¹ LPO, Article 43. Detailed regulations provided in Regulation 21/2020 on the Procedure for the Civil Servants' and Public Service Employees' Performance Appraisal.

²⁵² LPO, Article 61, point 1.3. Despite the LSCS, Article 11, point 1 providing for a progression of salary steps based on the appraisal results, this has never been applied in practice (interviews with the Director of the DMPO, 20 April 2021, and heads of HRM units, 28-29 April 2021).

²⁵³ Calculation based on data submitted by the national administration. The MIA's draft Civil Service Report 2020 provides no information on performance appraisals.

²⁵⁴ LPO, Article 23 and Article 31, points 1-2.

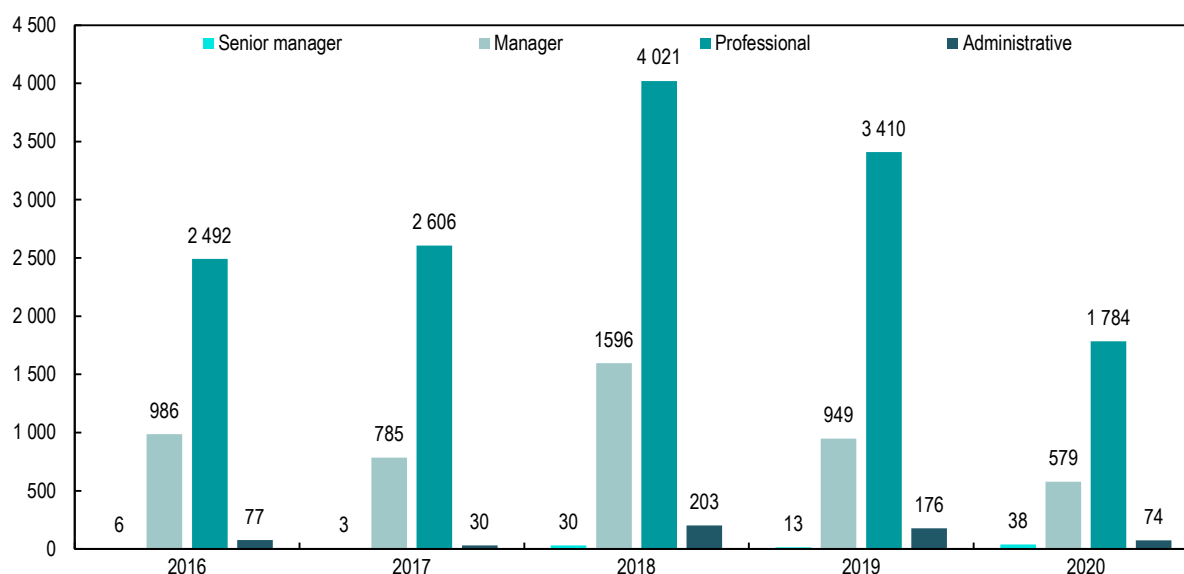
²⁵⁵ LPO, Article 37, point 3 and Article 39, point 10. The secondary legislation on the mandatory training modules foreseen in the LPO, Article 31, point 3 had not yet been adopted at the time of the assessment.

²⁵⁶ LPO, Article 11, point 1.5 and Article 12, point 1. The status of the KIPA is regulated in Law No. 04/L-221 on the KIPA, and LOFSAIA.

²⁵⁷ The Training Strategy for Civil Servants 2016-2020 exists, but there is no valid Action Plan in force, and the work is guided by the general PAR strategy. The most recent comprehensive civil service TNA was concluded at the beginning of 2021 within the framework of the EU technical assistance project. The previous comprehensive TNA was conducted in 2016. Interview with the Director of KIPA, 7 April 2021.

²⁵⁸ Feedback on central training is gathered, and training reports are produced, but the reports do not provide information on the quality of training or analysis of trainees' feedback. There are no conclusions on the quality of civil service training in the KIPA annual reports. The MIA's draft Civil Service Report 2020 has a descriptive section on civil service central training, but it does not provide any information or conclusions on the quality of training.

Figure 3. Participants of KIPA central training courses according to the position 2016-2020



Source: Ministry of Internal Affairs, draft Civil Service Report 2020, p. 39.

Although training is provided by both the KIPA and individual institutions, information is gathered only on the activities of the KIPA. No data was available on total government expenditure on civil service training or the participation of civil servants in training financed from the state budget. The KIPA has a critical role in supporting the DMPO's co-ordination function. There is co-operation between the two institutions according to the interviews, but the KIPA lacks capacity to fulfil the role of the central civil service training and development hub. First steps towards increasing the capacity of the KIPA have been taken by devising the new regulation on its internal structure with more staff and additional units²⁵⁹.

Conclusion


The professional development of public servants is vital under the new legislative framework, which relies on internal mobility. Current civil service HRM practices lack professionalism. A strategic view is needed for the KIPA and civil service training, including clarity in the division of responsibilities between the KIPA and the DMPO. Merit-based promotion and mobility within institutions needs support and guidance by the DMPO in the form of training, methodological materials, dissemination of data and consultation.

²⁵⁹ The regulation was in draft status in April 2021. Interview with the Director of the KIPA, 7 April 2021.

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

Overall, the value for the indicator 'Quality of disciplinary procedures for civil servants' is 4. The value of the indicator has improved due to the changes in the legislative framework.

Overall, the value for the indicator 'Integrity of public servants' is 4. The value has increased compared to 2017 due to the improvement in the sub-indicators relying on the Balkan Barometer survey and the use of investigations in practice. The sub-indicators focusing on policy on integrity and its implementation have deteriorated.

Indicator 3.7.1 - Quality of disciplinary procedures for civil servants						
This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Legal framework and organisation of disciplinary system						
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures					4/4	+2
2. Compliance between disciplinary procedures and essential procedural principles					6/6	=
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour					2/2	+1
4. Legislative safeguards for suspension of civil servants from duty					1/2	-1
Performance of professional development practices						
5. Disciplinary decisions confirmed by the courts (%)					0/4*	0
Total					13/18	+2

Note: *Data not available or provided.


The LPO provides adequate regulation for the disciplinary procedure and meets essential procedural principles²⁶⁰. The immediate supervisor is required to initiate disciplinary proceedings on the basis of concrete and proven facts for violation. The LPO provides an exhaustive list of four types of disciplinary sanctions ranging from reprimand to removal from the civil service. There are two issues where the legislative framework is unclear. First, there is no explicit statement on the circumstances that aggravate or extenuate disciplinary sanctions. Determination of the circumstances and their application is left to the discretion of the disciplinary committee members²⁶¹. Second, legal safeguards for suspension of civil

²⁶⁰ LPO, Chapter IV, sub-chapter I, Articles 45-51.

²⁶¹ LPO Article 50, point 1 obliges the immediate supervisor and the disciplinary committee to determine the sanction by relying on the causes of the offence, the circumstances surrounding the commission of the offence and the gravity and consequences thereof; the degree of culpability; the existence of other previous unredeemed disciplinary measures; and the previous efforts of the employee to avoid or limit the damage. However, there are no guidelines on how these elements aggravate or extenuate disciplinary sanctions. Regulation 11/2020 on the Discipline and Complaints of Public Officials does not provide any further details on this issue.

servants from duty and the rights of civil servants are not protected in the case of unsubstantiated disciplinary procedures²⁶².

Regulations imply that, even in a case where the disciplinary procedure ends without a disciplinary sanction, the civil servant receives fifty (50%) per cent of full salary for the period of suspension, excluding any type of salary allowance²⁶³. In addition, the working position of the civil servant is preserved only for a period of three months and therefore may not be available if the disciplinary procedure lasts longer but ends without a disciplinary sanction²⁶⁴. Very limited information is available on the application of the rules in practice. Insufficient data was available on the number and content of disciplinary procedures and no data was provided on the disciplinary decisions confirmed by the courts²⁶⁵.

Indicator 3.7.2 - Integrity of public servants						
This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service.						
The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Legal framework and organisation of public sector integrity						
1. Completeness of the legal framework for public sector integrity					5/5	=
2. Existence of a comprehensive public sector integrity policy and action plan					0/4	-2
3. Implementation of public sector integrity policy					0/3*	-2
Public sector integrity in practice and public perceptions						
4. Use of investigations in practice					3/4	+2
5. Perceived level of bribery in the public sector by businesses (%)					4/4	+3
6. Bribery in the public sector experienced by the population (%)					4/4	+2
Total					16/24	+3

Note: *Data not available or provided.

²⁶² The possibility of suspension in the case of a disciplinary procedure is provided in the LPO, Article 48, point 5 and Article 56, point 1.1.

²⁶³ The LPO, Article 58, point 4 states that 'during suspension, the civil servant shall not receive a salary, except in cases covered by paragraph 1.1 of Article 56, where the procedure ends without a disciplinary measure, and paragraph 1.7 of Article 56, where the employee receives fifty (50%) per cent of full salary, excluding any type of salary allowance, for a suspension period of up to six (6) months'.

²⁶⁴ The LPO, Article 58, point 2 states that 'in case of suspension for a period of up to three (3) months, the previous working position shall not be filled until the end of suspension'. There are no further clarifications on this in Regulation 11/2020 on the Discipline and Complaints of Public Officials.

²⁶⁵ According to the MIA's draft Civil Service Report 2020, p. 27, out of 52 central institutions, only 24 (46%) responded to the data request by the DMPO and provided information on the disciplinary procedures in their institution. The problems with the representativeness of the data were confirmed in the interview with the Director of the DMPO (20 April 2021).

Several legislative changes have taken place since 2017 and a rather complex primary legislative framework is in place²⁶⁶. The Law on the Protection of Whistle Blowers and its secondary regulation are not fully implemented yet²⁶⁷. Designating the responsible officials in institutions has emerged as a core barrier. In 2020, the ACA filed 23 requests at the Basic Court in Pristina to initiate minor offence proceedings against public institutions that had not appointed the responsible official²⁶⁸. In addition, the existing legislation contains ambiguities with regard to gifts. Besides differentiating protocol gifts and casual gifts and prohibiting the acceptance of monetary gifts, the legislation does not define what a 'gift' is and what its maximum value threshold is²⁶⁹. The regular annual declaration of assets works well, and the obligation is normally followed. For 2020, 98% of senior public officials who were obliged to declare their assets fulfilled the obligation²⁷⁰. Nevertheless, the failure to report or falsely reporting assets, income, gifts, other material benefits or financial obligations, is still the focus of the largest number of cases forwarded to the Prosecutor's Office. Amendments of the law on the declaration of assets are planned in order to clarify the procedures and sanctions²⁷¹.

The ACA is the main actor in combating and preventing corruption. The success of its activities depends on co-operation with other law enforcement institutions, especially with the Prosecutor's Office. In this respect, challenges have been noted, as the number of cases that are sent to the courts by the prosecutors and end up with a judgement is small²⁷². An amendment to the basic law governing the ACA (adoption of the Law on Prevention of Corruption) is planned, to enlarge the preventive responsibilities of the Agency by including monitoring and support for the implementation of integrity plans among its tasks²⁷³. Although the Civil Servants' Code of Conduct is obligatory for all civil servants and most public institutions have adopted their integrity codes, there is very limited standardisation and central co-ordination of the codes and of integrity plans²⁷⁴.

The work of the ACA has also been affected by the lack of a proper policy framework. The public sector integrity policy and its action plan have been part of the wider Anti-Corruption Strategy. There was no comprehensive public sector integrity policy and action plan in force for 2020²⁷⁵. The civil service has now,

²⁶⁶ LPO; Law No. 06/L-011 on Prevention of Conflict of Interest in the Discharge of a Public Function (2018); Law No. 06/L-085 on the Protection of Whistle Blowers (2018); Law No. 04/L-050 on the Declaration, Origin and Control of Property of Senior Public Officials and on the Declaration, Origin and Control of Gifts of all Public Officials (2011), and Law No. 04/L-228 amending and supplementing Law No. 04/L-050 on the Declaration, Origin and Control of Property of Senior Public Officials and on the Declaration, Origin and Control of Gifts of all Public Officials (2014); Law No. 03/L-159 on the Anti-Corruption Agency.

²⁶⁷ Regulation 03/2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing.

²⁶⁸ ACA report 2020, p. 16.

²⁶⁹ Law No. 04/L-050 and Law No. 04/L-228.

²⁷⁰ ACA report 2020, pp.23-24.

²⁷¹ Interview with the Director of the ACA, 14 April 2021.

²⁷² Interviews with government officials. ACA report, p. 44; p. 12 notes that 'corruption offences continue to constitute the lowest number of criminal cases investigated by the prosecution bodies but also constitute criminal offences for which the least convictions were imposed'.

²⁷³ Draft Anti-Corruption Action Plan 2021-2023; ACA report 2020; interview with the Director of the ACA, 14 April 2021.

²⁷⁴ The Civil Servants' Code of Conduct is provided in Regulation 04/2015. According to Article 2, point 1, the Code is obligatory for civil servants.

²⁷⁵ ACA report 2020, pp. 21-22. Interview with the Director of the ACA, 14 April 2021. The Anti-Corruption Strategy and Action Plan 2021-2023 were approved by the Government on 21 December 2020 and forwarded to the Assembly. The documents were not approved due to the dissolution of the Assembly. The previous strategy prepared for 2018-2022 was approved only by the Government on 28 March 2018, not the Assembly, and did not become effective in practice. No monitoring reports have been produced recently.

in 2021, been without an integrity policy for several years. The requirement in law that the Assembly approve the Strategy has made the process more complex and time-demanding²⁷⁶.

Conclusion

A comprehensive legal framework on integrity and disciplinary procedures is in place. No comprehensive integrity policy has been adopted due to the political instability. The ACA is responsible for the implementation of anti-corruption activities. Enlarging its functions in the prevention and monitoring of institutional integrity plans would strengthen the integrity policy and its co-ordination.

²⁷⁶ Law on the ACA, Article 16, point 2.

Accountability

The Principles of Public Administration Accountability

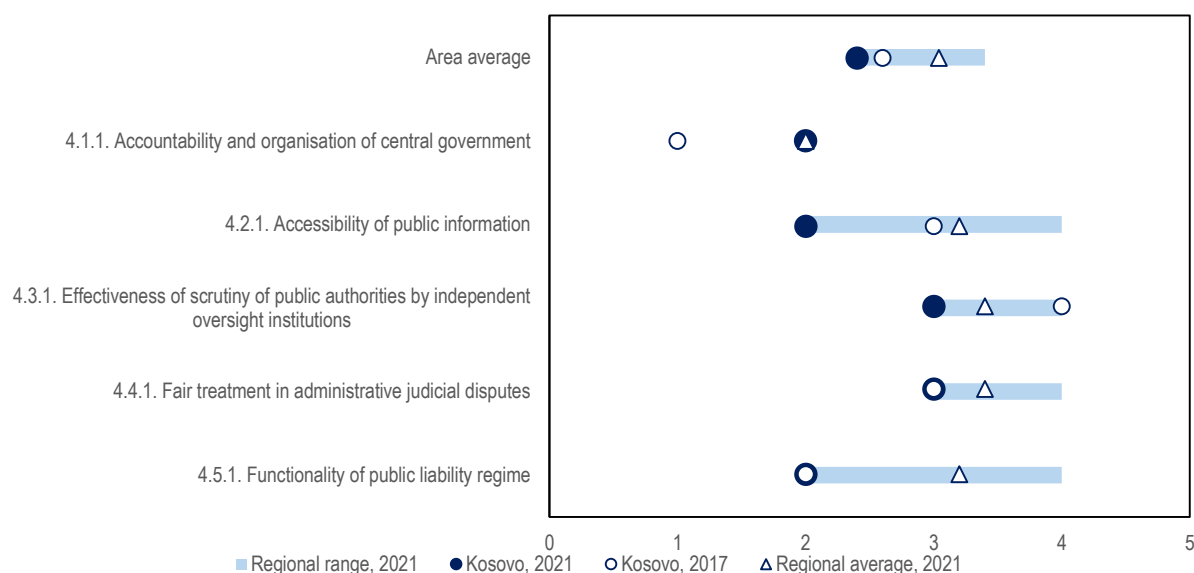
Principle 1	The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.
Principle 2	The right to access public information is enacted in legislation and consistently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

Accountability

Summary and recommendations

The overall trajectory for Kosovo in the accountability area is downward. The area average of 2.4 is the lowest compared to its neighbours in the region and has fallen from 2.6 in 2017. Only Kosovo and Montenegro regressed in the area of accountability since 2017. A new law has improved the regulatory framework for the organisation of public administration and thus raised the corresponding indicator value from 1 to 2, but in the areas of access to information and strength of the oversight institutions, Kosovo's indicator values have gone down by one, mainly because political instability has affected the institutional performance of the Commissioner for Information and Privacy and the Ombudsperson. There was no significant change for administrative justice and public liability.

The area average for accountability is the lowest in the region and less than in 2017 because access to public information and the performance of oversight institutions have both deteriorated

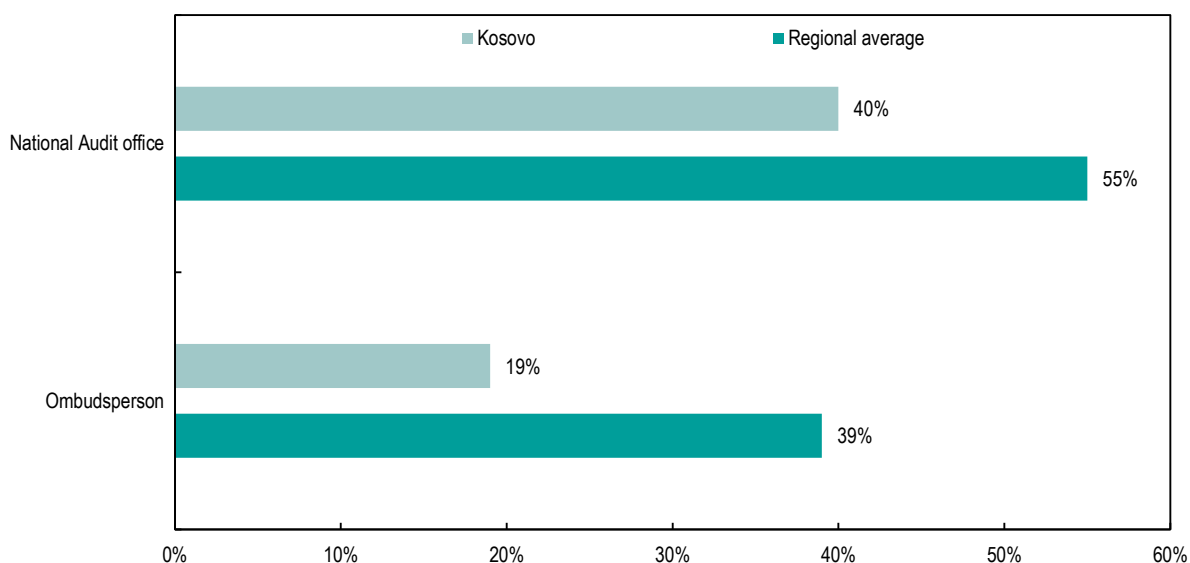


The new Law on the Organization and Functioning of the State Administration and Independent Agencies (LOFSAIA) laid strong foundations for achieving better organisation of central government, fewer executive agencies being subordinated to the Assembly (parliament) and the results-oriented governance of public agencies, based on a new, clear concept of agencies' autonomy and rules for ministerial steering. However, the Government action plan for the restructuring of agencies has so far not been implemented, despite the commitments made in the European Reform Agenda. Political instability stalled the process of aligning existing agencies with the new law, and Kosovo continues to have weak ministerial steering of public agencies and the highest number of executive agencies subordinated to the Assembly in the region. The renewed commitment by the Government to implement the action plan is therefore crucial.

The right to access public information is formally guaranteed in legislation, but citizens and businesses face several barriers in practice. The Commissioner for Information and Privacy post has been vacant since 2019, which means that the responsible agency is not fully operational, and if public bodies for any reason deny or ignore requests for information there is no independent appeal mechanism. Public bodies are less proactive in disclosing basic information than in 2017. Citizens continue to have a positive perception of the accessibility of public information (the highest in the region), but the satisfaction of businesses with accessibility of public information has dropped by half since 2017.

Public trust in Kosovo’s judiciary, the Ombudsperson Institution and the National Audit Office (NAO) is declining, and there is a low rate of implementation of recommendations. None of these oversight institutions are perceived by the population as being independent of political influence. Overall, the NAO performs effectively as an oversight institution, with adequate powers to hold the executive to account for its actions and strong collaboration with the Assembly, but the rate of implementation of its recommendations continues to be low and below the regional average. The continuing decreasing rate of implementation of the Ombudsperson’s recommendations is even more worrying.

Recommendations from the Ombudsperson and the National Audit Office in Kosovo were less frequently implemented by state bodies compared to the regional average in 2020



Source: Annual reports of the Ombudsperson institution and National Audit Office.

Administrative justice is hindered by insufficient capacity. On average, administrative judicial proceedings take more than three years. The new electronic case management system is a positive development but cannot on its own reduce the extraordinarily large backlog of cases. A deeper structural problem that must be tackled is that there are no mechanisms for citizens to seek compensation for excessive length of proceedings. As shown in the chart below, the increased public availability of court rulings and better organisation of judges have been important improvements since 2017.

The legislative framework for public liability is in place, but no data on administrative and judicial practice in this field is collected and analysed, which hinders the elimination of the most serious areas of maladministration.

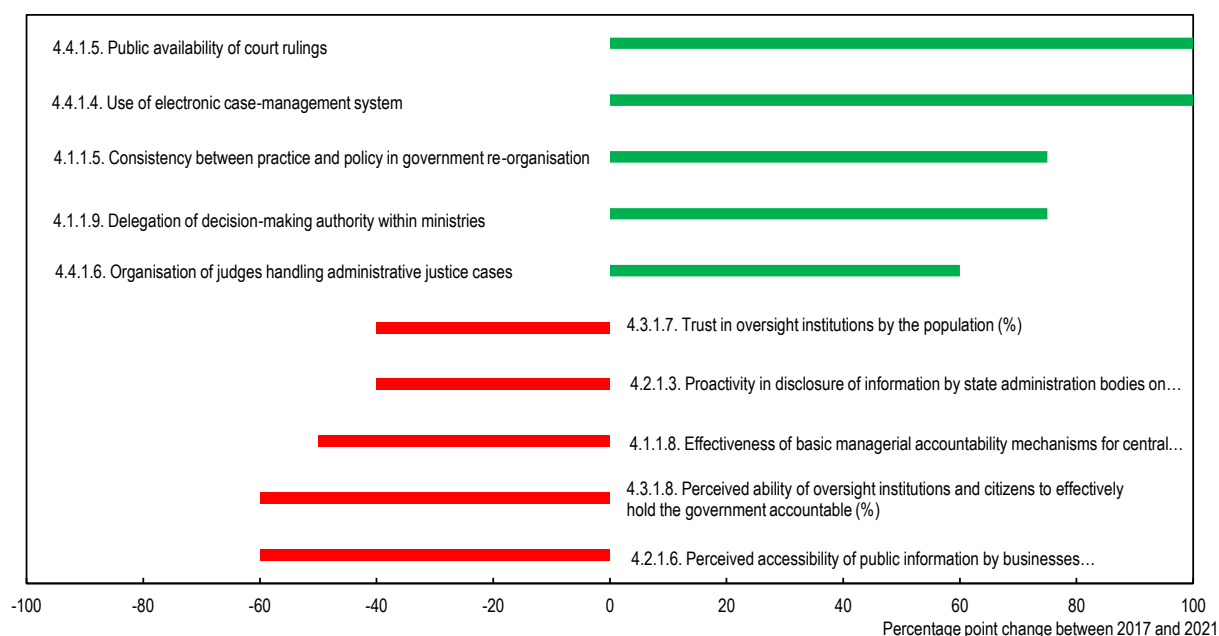
Short-term recommendations (1-2 years)

- 1) The Government, with the Office of the Prime Minister and the Ministry of Internal Affairs as co-ordinators, should implement the Action Plan for the Rationalisation of Agencies, harmonise all laws regulating individual agencies with the LOFSAIA, and ensure consistent application of the performance management system for public agencies.
- 2) The new Law on Access to Public Documents should be evaluated *ex post* to review whether the Information and Privacy Agency has the necessary supervisory powers to work effectively.
- 3) The Assembly should enhance its co-operation with the Ombudsperson Institution, to increase the responsiveness of the public administration in implementing its recommendations.
- 4) The Ministry of Justice, in co-operation with the Kosovo Judicial Council, should develop and urgently implement an action plan for reducing the backlog of administrative cases in the Basic Court of Pristina. Temporary transfer of judges could be considered.

Medium-term recommendations (3-5 years)

- 5) The Ministry of Justice should develop a legislative proposal providing an effective remedy against excessive length of judicial proceedings, including measures to speed up proceedings, and ensuring the right to compensation for violation of the right to a judicial hearing within reasonable time.
- 6) The Government should introduce mechanisms to monitor cases (both court cases and out-of-court settlements) that result in a liability of the State, with the goal of improving administrative procedures and decisions and thus reducing public liability cases in the future.

The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. Advances in some areas of administrative justice, and better delegation of decision-making, but lower trust in oversight institutions, less transparency and openness and less effective basic managerial accountability mechanisms



Analysis

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

Overall, the value for the indicator 'Accountability and organisation of central government' is 2. The adoption of the new framework law on public administration has increased the value from 1 in 2017.

Indicator 4.1.1 - Accountability and organisation of central government						
This indicator measures the extent to which the governance model of central government upholds lines of accountability and contributes to increasing the state's capacity, which is defined as the ability of the administrative apparatus of the state to implement policies, deliver services to citizens and support decision makers with policy advice. This includes assessing the legal and institutional framework for overall organisation of central government, as well as its implementation in practice.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
Policy and legal framework for central government organisation						
1. Clarity and comprehensiveness of official typology of central government bodies				1/5	=	
2. Adequacy of the policy and regulatory framework to manage central government institutions				3/5	+3	
3. Strength of basic accountability mechanisms between ministries and subordinated bodies				4/5	-1	
4. Managerial accountability mechanisms in the regulatory framework				4/5	+1	
Central government's organisation and accountability mechanisms in practice						
5. Consistency between practice and policy in government reorganisation				3/4	+3	
6. Number of public bodies subordinated to the parliament				0/4	=	
7. Accountability in reporting between central government bodies and parent ministry				0/4	-1	
8. Effectiveness of basic managerial accountability mechanisms for central government bodies				0/4	-2	
9. Delegation of decision-making authority within ministries				3/4	+3	
Total				18/40	+6	

The adoption of the new LOFSAIA²⁷⁷ was a watershed moment. The law intended to significantly transform the organisational landscape of public administration in Kosovo, by basing it on a rational institutional vision and comprehensive steering and accountability rules. The LOFSAIA introduced for the first time in Kosovo a standard typology of executive bodies operating below the level of ministries, consisting of executive agencies and regulatory agencies. Executive agencies would be the major vehicle for the implementation of laws and policies, and regulatory agencies would be a special type of body enjoying extended autonomy but still located firmly within the executive branch of the state. This typology does not include independent agencies regulated by the Article 143 of the Constitution that operate outside the Government.

²⁷⁷ Law No. 06/I-113 on the Organization and Functioning of the State Administration and Independent Agencies.

As early as 2016, in a review of agency governance²⁷⁸, the Ministry of Public Administration underlined that transforming the architecture and actual landscape of public administration in Kosovo would require not only legislative changes but also significant organisational, managerial and cultural changes. The adoption of the law should be accompanied by a change-management support programme from the centre of government. Based on this 2016 study, the Action Plan for the Rationalisation of Agencies was adopted by the Government in June 2018, envisaging four waves of public agency restructuring. The expected outcomes of the reform included a reduction in the number of agencies, the transfer of several agencies from the Assembly's domain to the Government administration and the adjustment of the institutional framework for the agencies in line with the provisions of the LOFSAIA²⁷⁹. Unfortunately, all major problems identified at the outset of the reform process remain unresolved.

Initially, the rationalisation process enjoyed high-level political endorsement. The Speaker of the Assembly and the Prime Minister of Kosovo signed a joint letter of commitment to support the rationalisation process and appointed responsible persons from both branches of power to spearhead the reform. However, the reform stalled due to political instability in 2019 and 2020. The 2021 parliamentary election that led to the formation of a strong parliamentary majority has established a fresh opportunity to complete the reform process.

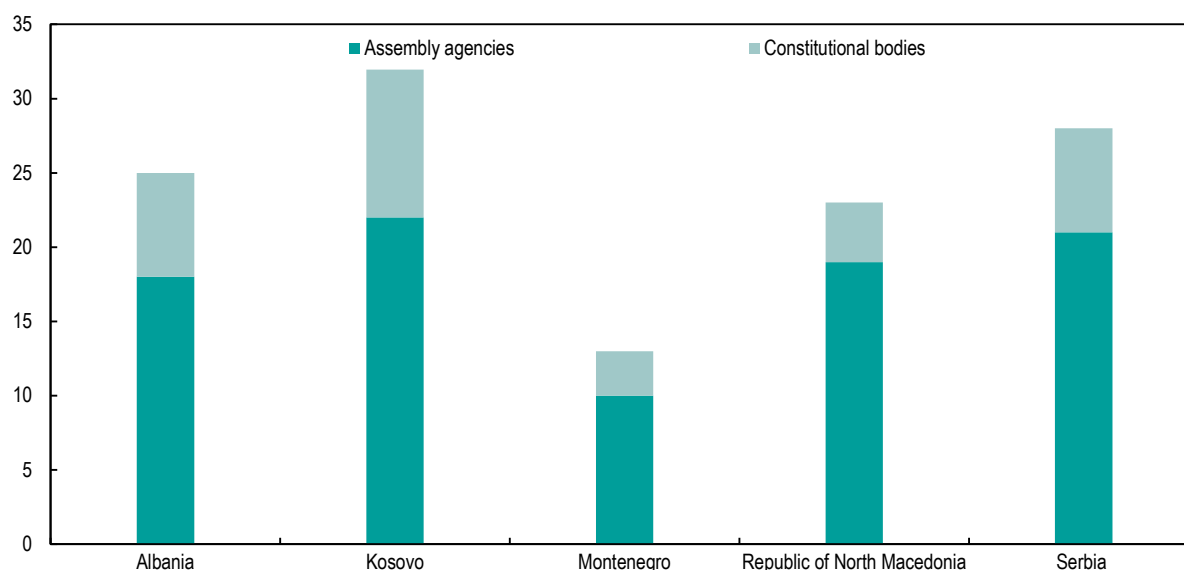
Continuation of the reform efforts is necessary, considering that governance challenges affecting the overall effectiveness and efficiency of public administration remain. First of all, interviews and submitted documentation illustrate that the LOFSAIA has still not been implemented with regard to regulating relations between ministries and agencies. For example, none of the agencies and ministries have yet applied the performance management system established by the LOFSAIA in practice²⁸⁰. Further, the harmonisation of the special laws regulating the status of each agency with the LOFSAIA has not been completed yet. Finally, Kosovo continues to stand out in the region with the highest number of classical executive bodies reporting to the legislature instead of the Government. Nevertheless, the LOFSAIA has already contributed to preventing further uncontrolled mushrooming of agencies. At least three initiatives to create new institutions have been stopped since the adoption of the LOFSAIA, as they failed to provide sufficient justification for the establishment of a new body, explicitly required by the LOFSAIA.

Figure 1. Number of agencies subordinated to the Assembly (parliament) in 2021

²⁷⁸ Ministry of Public Administration, Review of Institutions and Agencies of the Assembly and Central Bodies of the Government, December 2016.

²⁷⁹ The Government of Kosovo, Action Plan for the Rationalization of Agencies, June 2018.

²⁸⁰ The Government adopted a regulation specifying detailed rules of the results-oriented performance management system established by the LOFSAIA, promoting a strong steering role of the portfolio ministry combined with extensive operational autonomy of each agency. This included templates for annual plans and reports of the agencies, as well as a guidance document for providing structured feedback on agencies' performance by the portfolio ministries.



Source: Data provided by national administrations.


Progress was also recorded with regard to the delegation of decision-making powers within ministries, promoted by this law. The LOFSAIA established that responsibilities for operational management are to be allocated to the Secretary General as the top civil servant, who may further delegate some responsibilities to the heads of ministerial departments. This model appears to be followed in practice. Whereas recruitment decisions and employment contracts are still formally approved by ministers, the political leadership has now been relieved of the handling of other technical matters relating to human resource management (approval of annual leave, training and business trips), financial management (the signing of low-value contracts) and the issuing of administrative acts.

Conclusion

Better organisation of central government and, in particular, better governance of public agencies has been a key reform objective for the Kosovo Government, the Assembly and the EU since 2017, to minimise the waste of public funds and strengthen accountability to citizens. Although the LOFSAIA has been adopted and provides a well-designed governance framework, political instability stalled the process of aligning existing agencies with the new law. However, in July 2021 the Government renewed its commitment to implement the reforms. Kosovo continues to have the highest number of agencies subordinated to the Assembly in the region.

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

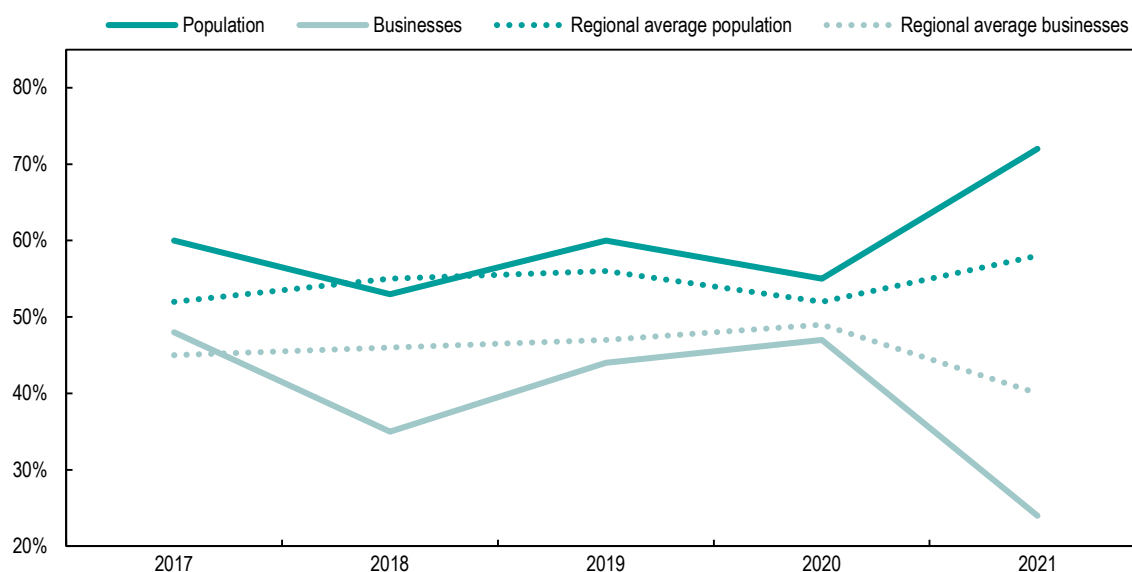
Overall, the value for the indicator 'Accessibility of public information' is 2. The value has fallen from 3 in 2017 because public bodies are less proactive and transparent in publishing information, and because businesses are less satisfied with the handling of information requests by the public administration.

Indicator 4.2.1 - Accessibility of public information						
This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021		Change from 2017	
Legal and institutional framework for access to public information						
1. Adequacy of legislation on access to public information			9/10		=	
2. Coverage of basic functions for implementing access to public information			0/5		-2	
Citizens' level of access to public information						
3. Proactivity in disclosure of information by state administration bodies on websites (%)			0/5		-2	
4. Proactivity in disclosure of datasets by the central government (%)			2/5		-2	
5. Perceived accessibility of public information by the population (%)			2.5/2.5		+1	
6. Perceived accessibility of public information by businesses (%)			0/2.5		-1.5	
Total			13.5/30		-6.5	

All evidence collected for this assessment shows that public bodies have become less transparent since 2017. SIGMA's review of the websites of selected central bodies demonstrates major problems with the proactive disclosure even of basic organisational documents such as annual plans, annual reports and budgets (financial plans). Also, the accessibility of key datasets poses a challenge. For example, there is no publicly available database of legislative acts in consolidated format (including all changes), and neither is it possible to access a land registry containing basic data about the ownership and legal status of property.

The results of this review correspond well with the decline in satisfaction of businesses regarding the processing of public information requests. Less than a quarter (23.8%) of the respondents were satisfied with how public authorities handle public information requests in terms of timeliness, cost and quality of information. This is a significant drop from 2017, when almost half were satisfied, and below the regional average rate, which in 2021 stood at 40%. On the other hand, satisfaction has continued to rise amongst the general population, to the highest since 2017. In 2021, 75% of citizens were satisfied with access to public information, outperforming the regional average at 58%. It will be important to follow these perceptions going forward. Perceptions are slow to change and the impact of the reduction in the actual level of transparency may only be seen amongst the general population in future survey rounds.

Figure 2. Perceived accessibility of public information by citizens and businesses, 2017-2021



Note: Percentages show the average share of citizens and businesses who 'strongly agree' or 'tend to agree' with the following statements: 1) Requests for information are processed at a reasonable cost; 2) The information provided is pertinent and complete; and 3) Requests for information held by a government agency are granted in a timely manner.

Source: Regional Cooperation Council, Balkan Barometer Citizens' and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

Legal and institutional instability and dysfunctionalities have not improved the situation. The new Law on Access to Public Documents (LAPD)²⁸¹ entered into force in July 2019 offering procedural standards for accessing public information compatible with minimum international requirements, in particular the Council of Europe Convention on Access to Official Documents (Tromso Convention)²⁸². Public information is defined broadly, and the catalogue of legitimate grounds for restricting access to information is limited and accompanied by a mandatory public interest test that must be passed before access to information can be refused²⁸³.

Following the regional trend, the new LAPD envisaged the establishment of an independent supervisory body responsible for public information. Similar to its counterpart in Montenegro and Serbia, this new body (the Information and Privacy Agency) has a dual mandate – public information matters are combined with data protection issues. The Agency took over supervisory powers in the area of access to information in 2019 but lacked its head, the Commissioner for Information and Privacy, up until June 2021. Despite several requests, the Assembly delayed appointing the Commissioner because of the political uncertainty and frequent general elections and new government formations. This situation effectively prevented the Agency from using the powers assigned to it by the LAPD. One severe consequence was that the Agency could not act as an appeal body in cases of refusal of access to information or administrative silence. Further, it could not impose sanctions for violations of the right to information stipulated in the LAPD.

Deficits in the legislative framework may hamper the Agency's effectiveness even now that the Commissioner has been appointed. Firstly, the Agency (Commissioner) has no mandate by virtue of the

²⁸¹ Law No. 06/L-081 on Access to Public Documents.

²⁸² Council of Europe Convention on Access to Official Documents of 18 June 2009, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/205>.

²⁸³ Applicants are not required to provide justification to public information requests and may also determine the form of access to information. The catalogue of bodies subject to transparency obligations covers both classical public authorities and private bodies performing public functions or using public funds.

office held to conduct ex officio inspections of information holders in order to assess their compliance with the transparency requirements. Secondly, while considering appeals against refusal of access to information or administrative silence, the Agency has no power to request information and documents from relevant information holders. Thus, it may face significant problems in determining whether the access to relevant information was refused legitimately or not.

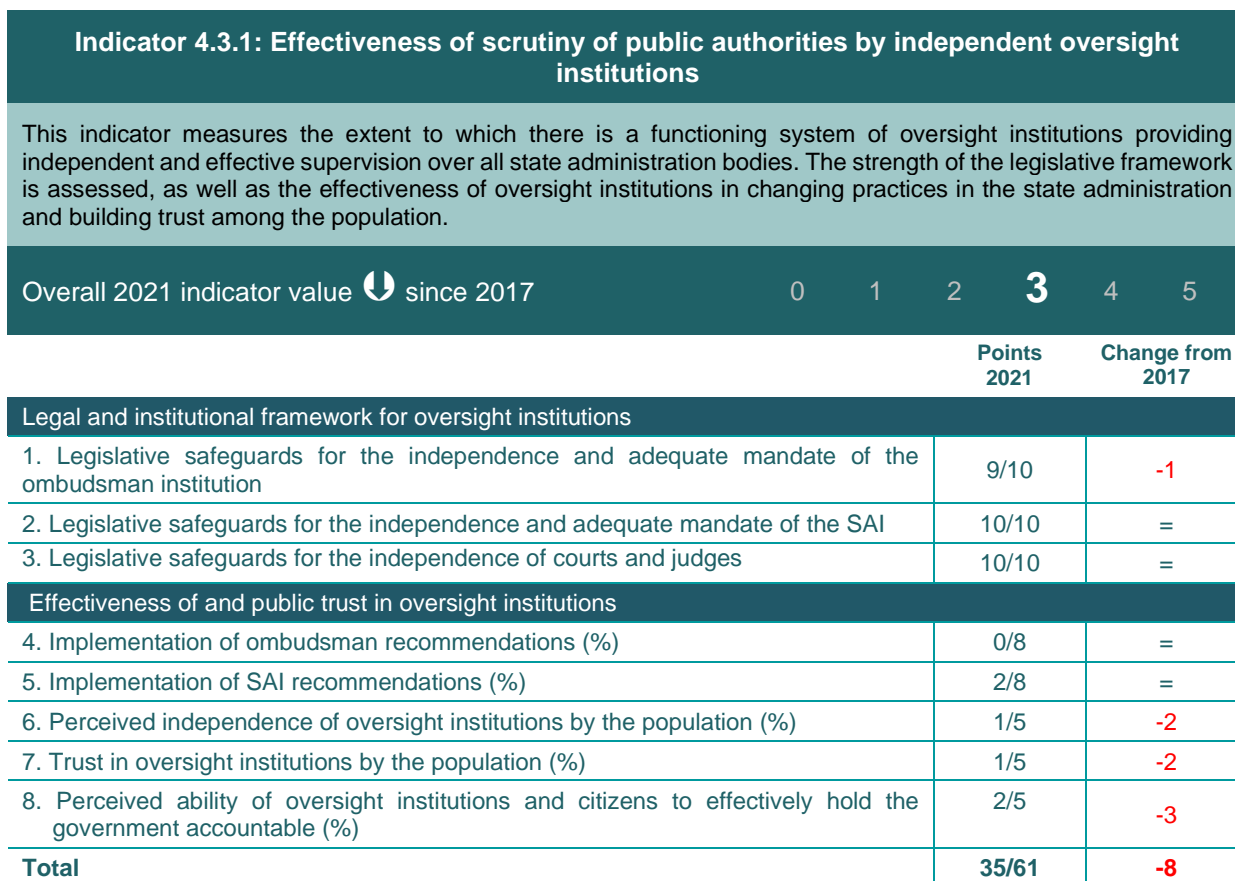
Finally, the catalogue of sanctions for violations of the right to information contains only very general descriptions of the actions that would constitute grounds for sanctions, which may create numerous interpretation problems in practice. For example, it is not fully clear whether a fine could be imposed on a body that fails to submit its annual statistical report regarding its handling of public information requests to the Agency.

Conclusion

The right to access public information exists in theory, but in practice citizens and businesses face several barriers if public bodies for any reason deny or ignore their requests for information. The Assembly postponed the appointment of the Commissioner for Public Information for approximately two years, meaning that the institution responsible for helping citizens and businesses was not fully operational. Public bodies also do not disclose much basic information on their websites. While citizens still have a positive opinion on the accessibility of public information (the highest in the region), the satisfaction of businesses with the accessibility of public information has dropped by half since 2017.

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

Overall, the value for the indicator 'Effectiveness of scrutiny of public authorities by independent oversight institutions' is 3. A decrease in the level of public confidence in oversight institutions over the period of assessment has caused a reduction in the overall indicator value from 4 in 2017. The implementation rate for recommendations has remained at a low level.



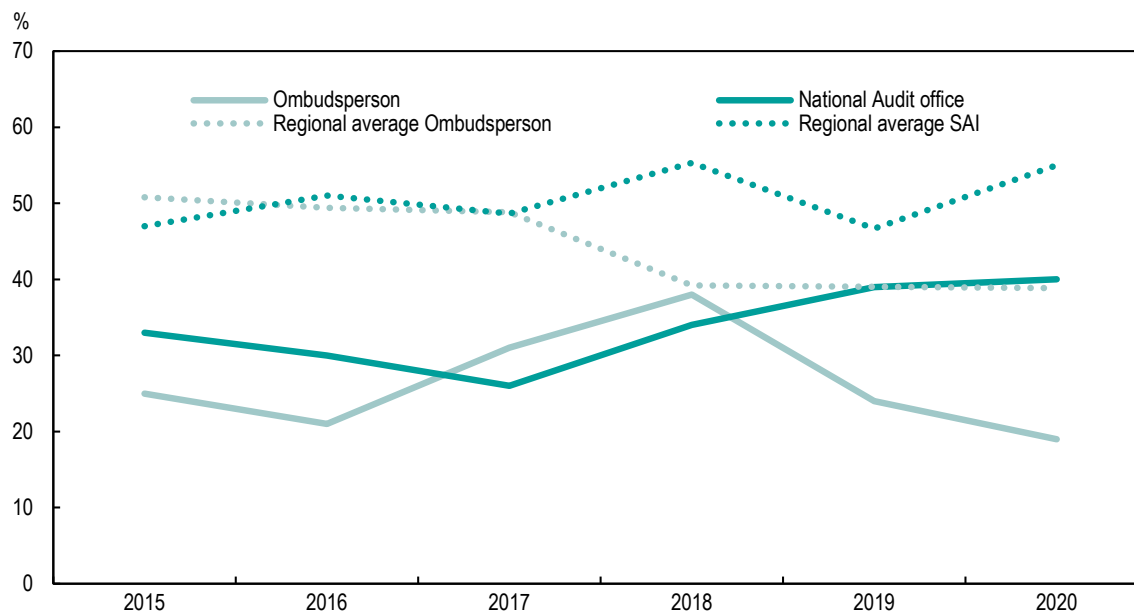
The legislative framework for oversight institutions (comprising an ombudsperson institution, a supreme audit institution and the courts) meets minimum international standards. As explained in more detail in the Public Financial Management chapter under Principle 15, the status and mandate of the supreme audit institution (the NAO in Kosovo) is regulated in line with the requirements of the International Organisation of Supreme Audit Institutions. The Kosovo Judicial Council is composed predominantly of judges to ensure judicial independence according to constitutional standards.

Also, the Ombudsperson institution has strong legal guarantees for independence. Kosovo's ombudsperson institution is, along with their Albanian counterpart, subject to the most extensive constitutional regulation of all the post-socialist countries of Central and Eastern Europe. Kosovo is also the only example in the region so far that has fully implemented the recommendation of the Venice Commission to safeguard the stability of the ombudsperson's mandate by ensuring that the majority needed for any premature dismissal of the Ombudsperson is higher than the majority needed for the appointment. (In Kosovo a two-thirds majority of all deputies is required for dismissal while a simple majority is sufficient for the appointment.) Finally, any year-to-year reduction of the Kosovo Ombudsperson's budget requires the consent of the institution. This is also unusual, and it is worth noting that this guarantee is observed in practice.

However, the favourable legal framework has not ensured that the oversight institutions are effective. The responsiveness of state administration bodies towards the recommendations of the Ombudsperson is deteriorating and at its lowest level since 2015. In 2020, only 19% of the recommendations were implemented. Figure 3 shows the downward trend and that Kosovo is below the regional average at 39%.

The implementation rate for the NAO's recommendations was 40%, the highest for Kosovo since 2017 but still below the regional average of 55%.

Figure 3. Implementation rate of recommendations from oversight institutions are below the regional average and at its lowest since 2015 for the Ombudsperson



Note: The regional average for the supreme audit institutions (SAI) is calculated based on data from Albania, Kosovo and Serbia. The SAI of North Macedonia changed its methodology for calculating the implementation rate over the period, so that rate is omitted, and data from Montenegro and Bosnia and Herzegovina was not available. The regional average for the ombudsperson institutions is calculated based on data from Albania, Bosnia and Herzegovina, Kosovo, Montenegro and North Macedonia. No data is available for Serbia.

Source: Annual reports of the Ombudsperson institution and National Audit Office.

The traditional support given to the Ombudsperson by the Kosovo Assembly has in recent years been adversely affected by the period of political instability. The Ombudsperson was invited to present the annual report in the plenary session of the Assembly in 2020, but the legislature failed to undertake any other significant actions to support the Ombudsperson in recent years.

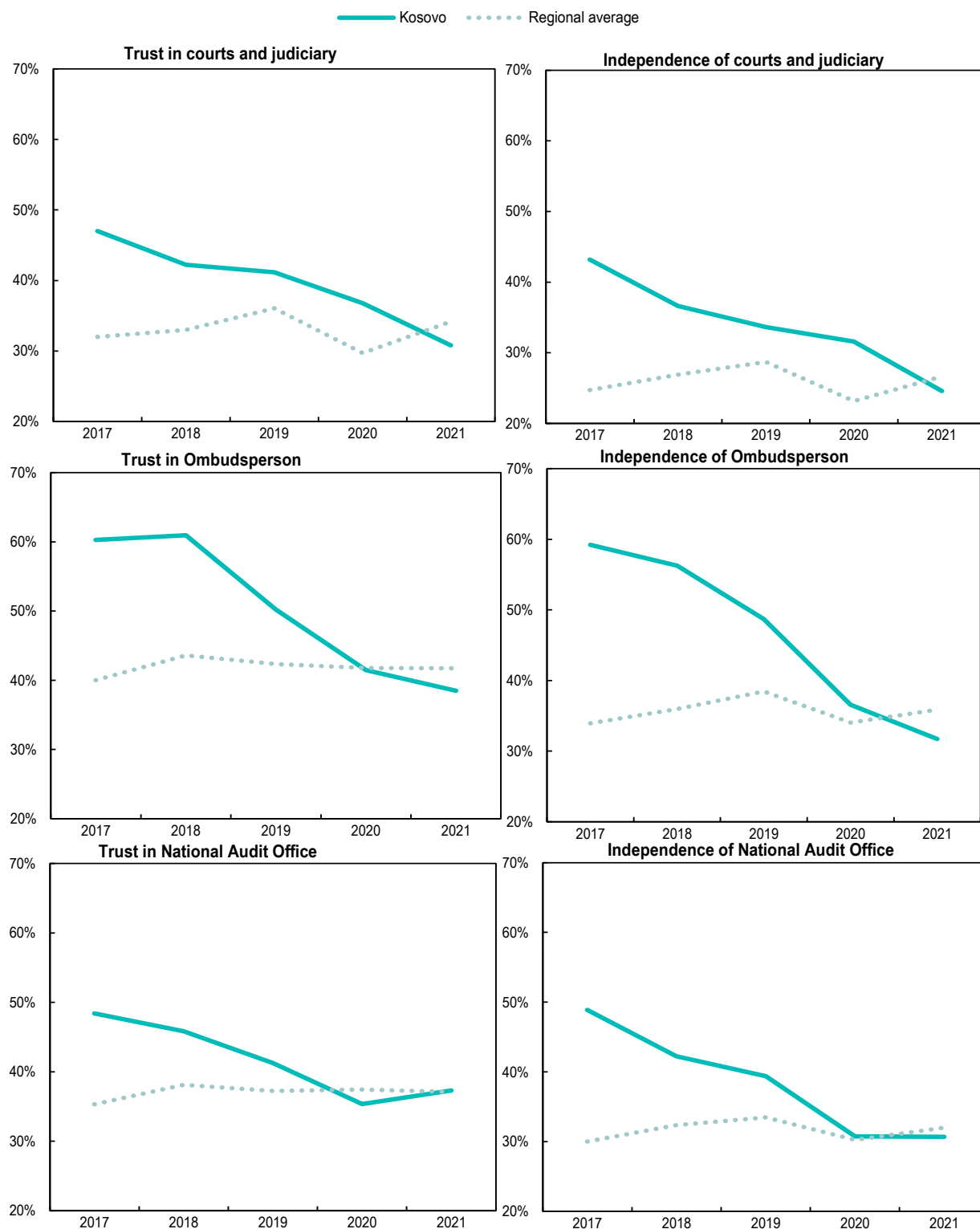
As a result, there is an increasing discrepancy between the strong constitutional position of the Ombudsperson institution and its continuously weakened impact. Unfortunately, the Kosovo Ombudsperson is at serious risk of following a path familiar to other such institutions in the region and becoming another 'toothless tiger' – an oversight institution with strong legal protections and powers that in practice has no or little ability to oversee and sanction the executive.

Public confidence in oversight bodies has decreased since 2017. Courts are the least trusted of the oversight institutions in absolute terms. Only 31% of Kosovars trust the courts. This is a significant drop from 47% in 2017, and Kosovo is now below the 34% regional average. For reference, the EU average level of trust in the justice system is 52%²⁸⁴. In relative terms, trust in the Ombudsperson institution fell most over the period, from 60% in 2017 to 39% in 2021. The regional average has been steady at 40-42% over the period. Trust in the NAO also fell, from 48% to 37% over the period and is now at the same level as the regional average. This is part of a general trend of declining public trust in Kosovo's state institutions. Trust in the Assembly dropped from 41% to 27%.

²⁸⁴ Eurobarometer 94, *Public Opinion in the European Union: Winter 2020-2021*, p. 42, [eb_94_public_opinion_en.pdf](#).

Levels of trust correlate with the perceived levels of independence of these oversight institutions. Only 27% of the population perceive the courts to be independent. The largest relative decline in perceived independence is for the Ombudsperson institution, followed by the NAO.

Figure 4. Trust in oversight bodies and perceived levels of independence have fallen since 2017.



Note: Perceived independence is expressed as the share answering 'tend to agree' or 'strongly agree' to the question: 'Do you agree that the following institutions are independent of political influence?'. Trust is expressed as the share answering 'tend to trust' or 'totally trust' to the question: 'How much trust do you have in certain institutions?'

Source: Regional Cooperation Council Balkan Barometer Public and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

Conclusion

The NAO enjoys strong legal protections and collaboration with the Assembly but the implementation rate of its recommendations continues to be low. The continuing decreasing rate of implementation of the Ombudsperson's recommendations is alarming, and collaboration with the Assembly should be strengthened. Public confidence in all oversight institutions is worryingly low and on a downward path.

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

Overall, the 2021 value for the indicator 'Fairness in handling of administrative judicial disputes' is 3, the same as in 2017. A new electronic case management system has improved the technical infrastructure of the judiciary, court rulings have become more publicly available and judges better organised, but continuing efficiency issues mean that the huge backlog of cases has not been cleared, and the judiciary is not perceived as independent.

Indicator 4.4.1 - Fairness in handling of administrative judicial disputes					
This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes and the administrative judiciary is characterised by efficiency, quality (including accessibility) and independence. Outcomes in terms of case flow and public perceptions of independence are also measured.					
Overall 2021 indicator value	0	1	2	3	4 5
			Points	Change from	
			2021	2017	
Legal framework and organisation of judiciary					
1. Adequacy of the legislative framework for administrative justice			5/6	=	
2. Accessibility of administrative justice			2/4	=	
3. Effectiveness of remedies against excessive length of proceedings in administrative cases			0/2	=	
4. Use of an electronic case-management system			1/1	+1	
5. Public availability of court rulings			2/2	+2	
6. Organisation of judges handling administrative justice cases			4/5	+3	
Performance of the administrative justice system					
7. Perceived independence of judicial system by the population (%)			1/5	-2	
8. Calculated disposition time of first-instance administrative cases			0/5	=	
9. Clearance rate in first-instance administrative courts (%)			5/5	=	
10. Cases returned for retrial by a higher court (%)			4/5	-1	
Total			24/40	+3	

The Law on Administrative Conflicts²⁸⁵ secures the right to judicial review of administrative acts. Access to administrative justice is hampered by relatively high court fees. The standard tariff for initiating an administrative case in the court amounts to over 11% of the average gross salary. This is only somewhat mitigated by the fact that parties in a difficult economic situation may request exemption from court fees and benefit from other forms of legal aid, including free professional legal representation. Parties in court proceedings have no access to any effective remedies against excessive length of judicial proceedings and compensation for a violation of the right to trial within a reasonable time. Further, the position of citizens in any administrative conflict is further undermined by weak safeguards against non-enforcement

²⁸⁵ Law No.03/L-202 on Administrative Conflicts.

of judicial decisions. In particular, the court has no power to impose sanctions on the authority or official failing to implement the court ruling.

As there is no separate administrative court, administrative matters are decided by a special department of the Basic Court of Pristina. However, full specialisation of the judges is not ensured, as they handle cases of criminal misdemeanour in parallel with administrative cases. Judges are supported by a sufficient number of legal assistants (10 assistants serving 12 judges) and have access to continuing education organised by the Kosovo Academy of Justice, based on a comprehensive mechanism for training needs assessment.

Since 2019, the work of the courts and judges has been supported by the new and advanced electronic case management system. It allocates the cases to the judges, records all the events in the case, enables the generation of notices and decisions, and provides real-time data on the workload of the courts and individual judges. This new system is also beneficial for the parties in court proceedings, as it enables them to monitor the status of the case online.

These technical improvements are the most positive developments since 2017. However, efficiency in dealing with administrative cases remains a challenge. According to the most recent study by the European Commission for the Efficiency of Justice (CEPEJ), which evaluates the performance of judicial systems across Council of Europe member states, the average time needed to resolve administrative case is 241 days²⁸⁶. In Kosovo, it is nearly five times more (1188 days). The regional average is 544 days.

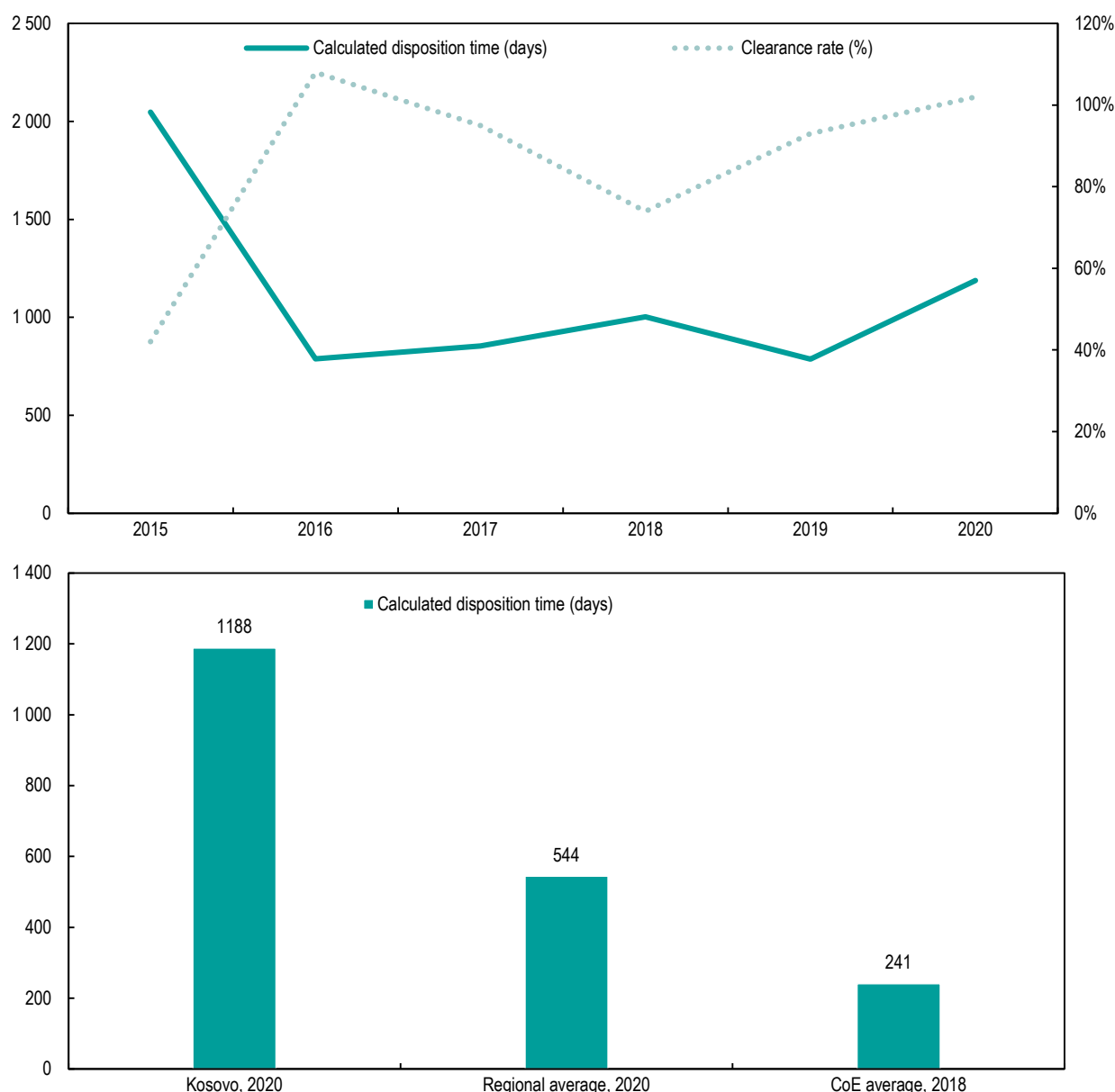
Nevertheless, it should be acknowledged that in the pandemic year 2020, the administrative department of the Basic Court of Pristina managed to slightly reduce the backlog, achieving a clearance rate above 100% for the first time since 2016. A clearance rate above 100% means that the court disposed of more cases than it received, and the backlog is reducing. However, the backlog, measured according to disposition time, is extraordinarily high in Kosovo. With the existing number of judges handling administrative cases, each judge would have to resolve approximately 500 cases just to clear the current backlog (irrespective of the new influx of cases).

The Kosovo Judicial Council implemented a Crisis Management Action Plan setting standards for continuity of courts' operations in these special circumstances, which seems to have been a good response to these challenging times.²⁸⁷ There has, however, been a significant decrease in the influx of new cases during the pandemic. Data for 2021 should show more reliably whether the improvements in the court's efficiency are likely to continue in the long term.

²⁸⁶ Council of Europe (2020), *European judicial systems: CEPEJ Evaluation Report 2020*, Evaluation cycle (2018 data), Strasbourg, p. 108.

²⁸⁷ Kosovo Judicial Council, Action Plan on Covid-19 pandemic crisis management, online: https://www.gjyqesori-rks.org/wp-content/uploads/reports/82406_ACTION%20PLAN%20ON%20COVID-19%20PANDEMIC%20CRISIS%20MANAGEMENT.pdf.

Figure 5. Backlog of administrative court cases (calculated disposition time and clearance rate)



Source: Data provided by the Kosovo Judicial Council and similar institutions in the region. Council of Europe (2020), European judicial systems: CEPEJ Evaluation Report 2020, Evaluation cycle (2018 data), Strasbourg, p. 108.

Conclusion

The average duration of administrative judicial proceedings is more than three years. This hinders access to justice. A new, advanced case management system has recently been introduced but this system alone is insufficient to reduce the extraordinarily large backlog of cases. A deeper structural problem that must be tackled is that there are no mechanisms for citizens to seek compensation for excessive length of proceedings.

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

Overall, the value for the indicator 'Functionality of public liability regime' is 2. There has been no change in the indicator value since 2017, as the legal framework has not changed and there is still no progress in monitoring the implementation of public liability mechanisms.

Indicator 4.5.1 - Functionality of public liability regime						
The indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Legal framework for public liability						
1. Comprehensiveness of the scope of public liability				1/1	=	
2. Coverage of the public liability regime to all bodies exercising public authority				1/1	=	
3. Non-discrimination in seeking the right to compensation				1/1	=	
4. Efficiency and fairness of the procedure for seeking compensation				3/3	=	
Practical implementation of the right to seek compensation						
5. Application of the public liability mechanism in the courts in practice				0/3*	=	
6. Payments made to entitled applicants (%)				0/3*	=	
Total				6/12	=	

Note: *Data not available or provided.

Public liability for administrative wrongdoing as a legal concept is based on the provisions of the Law on Obligational Relationships²⁸⁸ relating to the liability of legal persons for damage caused by its organs during the performance of its functions or in connection therewith. The law, inherited from the Yugoslav times, applies also to damage resulting from the actions of public authorities.

The right to seek compensation is formulated in a non-discriminatory manner empowering everyone to pursue their rights, regardless of nationality or legal status. Claims for compensation are adjudicated by the courts of general jurisdictions, based on the procedure for civil cases. Cases are resolved within a single lawsuit and the court decides both on the substance of the claim and the amount of compensation to be paid.

Although the legal concept of public liability is firmly established, SIGMA has been unable to assess the administrative and judicial practice in public liability cases because the Government is not systematically monitoring its application. No statistical data relating to claims considered by the courts and compensations paid are available. There is no evidence of the regular analysis of public liability cases with the aim of investigating and correcting maladministration.

Conclusion

Citizens' right to compensation in the case of wrongdoing by the public administration is legally secured. However, administrative and judicial practice in the area of public liability is not actively monitored by the authorities, so evidence of its practical application is not available.

²⁸⁸ Law No. 04/L-077 on Obligational Relationships.

Service Delivery

The Principles of Public Administration Service Delivery

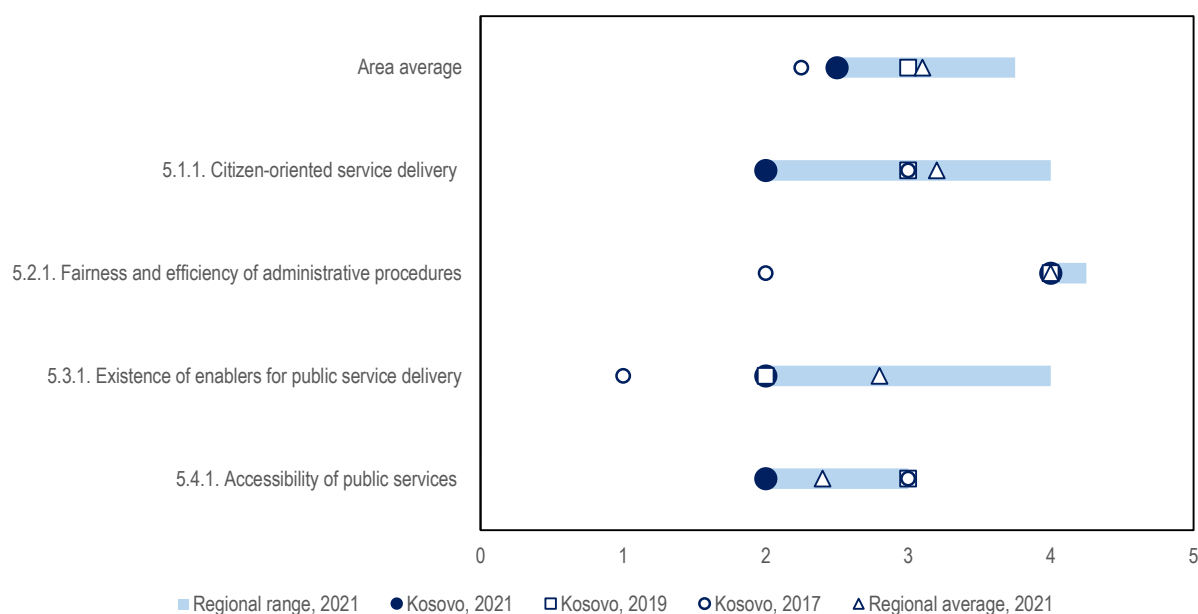
Principle 1	Policy for citizen oriented state administration is in place and applied.
Principle 2	Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.
Principle 3	Mechanisms for ensuring the quality of public service are in place.
Principle 4	The accessibility of public services is ensured.

Service Delivery

Summary and recommendations

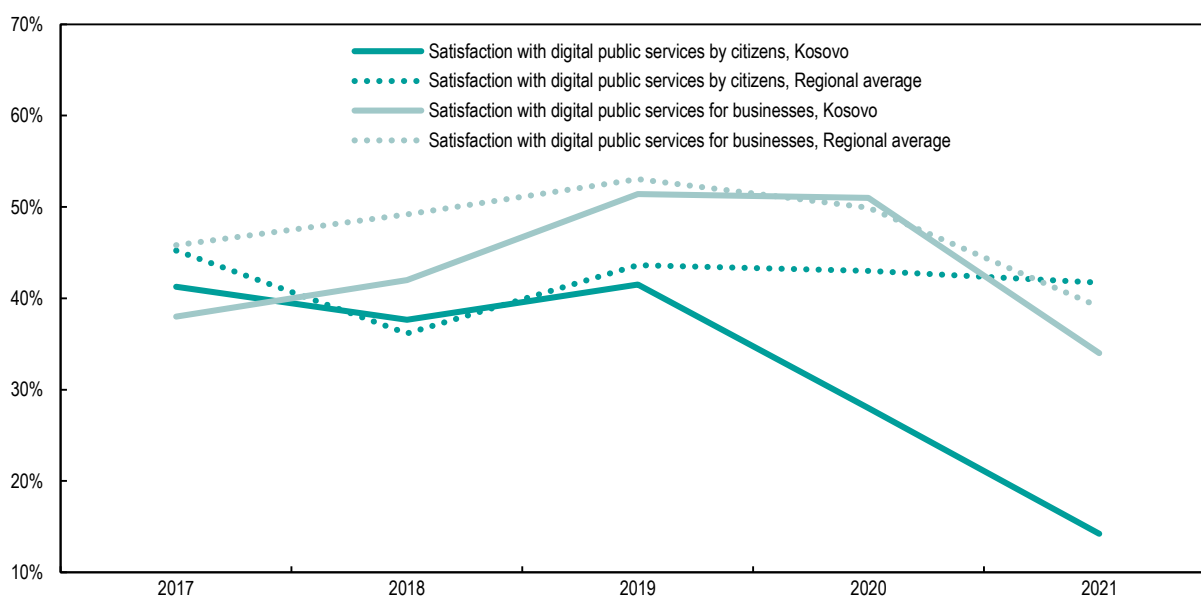
With an area average of 2.5, Kosovo did not manage to maintain the progress made in the 2019 monitoring report in the service delivery area. Compared to the region (average of 3.1), Kosovo is also making slower progress in improving service delivery, including the digital transformation.

Advances in 2019 were reversed on average in 2021. The quality and accessibility of public services are below the regional average



Despite achieving some important milestones (the coming into force of the Law on General Administrative Procedures, a functioning Government Gateway and the setting up of the e-Kosovo portal) these **have not been sufficiently translated into improved service delivery for citizens and businesses**. This is demonstrated by the deteriorating perception of satisfaction of citizens and businesses with the service delivery, measured by the Balkan Barometer survey. The progress in individual institutions tends to be piecemeal rather than part of a comprehensive transformation of service delivery.

Satisfaction with digital public services is falling even more steeply for citizens than for businesses



Note: The percentage of respondents who answered “tend to be satisfied” or “strongly satisfied” in relation to “Accessibility to public services via a digital channel” and “Digital services currently provided by the public administration for businesses”. Satisfaction with digital public services by citizens’ data is not available for 2020.

Source: Regional Cooperation Council, Balkan Barometer Public and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

A comprehensive **Citizen-oriented service delivery modernisation is hindered by the lack of a stable institutional set-up** and illustrated by the fact that no responsible unit for service delivery policy has been installed. The recent appointment of the Government Chief Technical Officer (CTO) can be seen as a positive step. The expired strategies and plans on service delivery (including public administration reform, administrative simplification and digitalisation) have not been replaced by a comprehensive and coherent strategy and plan of action in the service delivery area that applies a comprehensive set of policy measures, actively supports institutions and monitors progress. **In the absence of a comprehensive approach, individual service delivery remains cumbersome** – although generally better for businesses than for citizens – and at a low digital maturity level.

With the adoption of the Law on General Administrative Procedures (LGAP), an important milestone was set in the area of fairness and efficiency of administrative procedures, and this is positively reflected in citizens’ perception. However, harmonisation of special laws with the LGAP has been slow and is behind the targets set. Moreover, separate reform initiatives on simplification and administrative burden reduction lack co-ordination. General awareness of how to turn the LGAP principles into service delivery practices is needed.

Some enablers for public service delivery have been installed, but their potential remains untapped. The number of information systems exchanging data over the interoperability platform (the Government Gateway) has substantially increased, but the quality assurance of the registries is insufficient and the ‘once only’ principle has not materialised in practice. The e-Kosovo portal shows potential, but it is currently limited to offering only 36 services online, some of which are fully digital, while others offer information. More services are being prepared to be uploaded. An initial inventory of administrative procedures was carried out, but there is a general lack of service standards, systematic and methodological support for service providers, and central monitoring of service delivery against established metrics. Moreover, important enablers such as the digital signature are not compatible with

eIDAS²⁸⁹, and e-payment solutions are still not available. **In the absence of a lead institution, there is no general approach to promoting quality management systems and user engagement practices**, which is leading to their anecdotal use in public administration.

Government policy on improving ‘accessibility to public services’ is limited to providing services through the e-Kosovo portal and does not address over-the-counter service delivery. The creation of one-stop shops has proceeded more slowly than planned. The Strategy for People with Disabilities 2013-2023 is in place, but **accessibility to public buildings remains poor**, despite the adequate regulatory framework. Government websites continue to contain many errors as there is no set standard to which they must adhere. **Public satisfaction with public services and accessibility of digital services is low**. However, citizens grade the time and cost of accessing public services highly.

Short-term recommendations (1-2 years)

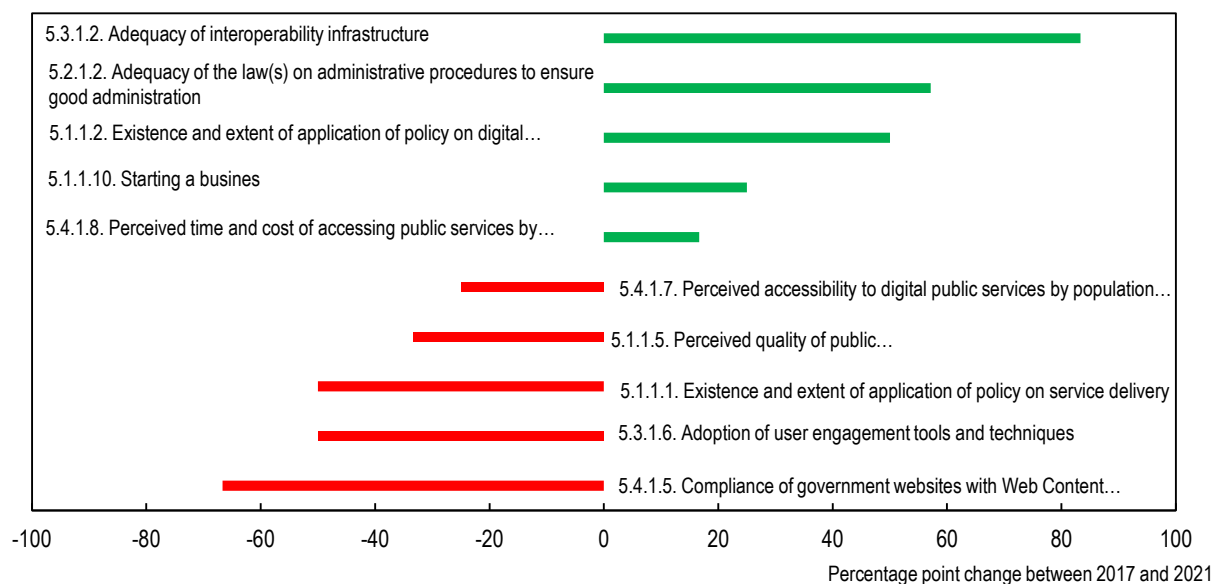
- 1) The Government should develop a comprehensive service delivery strategy – including digital transformation – with clear objectives, a dedicated action plan and a supporting performance monitoring framework. The development and implementation of the service delivery strategy needs to be supported by a clear and stable institutional set-up, clearly assigning a leading responsible actor.
- 2) The e-Kosovo portal needs to evolve into the central one-stop shop for digital service delivery by extending the number of services offered via the platform and rigorously improving the usability of the portal by applying a life-event approach.
- 3) The Government should clarify its one-stop shop policy.
- 4) The Ministry of Internal Affairs (MIA) and the Office of the Prime Minister (OPM) should strengthen co-ordination between the harmonisation of special laws with the LGAP and administrative simplification, including the re-engineering of services.

Medium-term recommendations (3-5 years)

- 5) The Government should promote a user-centred approach in public institutions and should appoint a leading actor in developing, promoting and supporting tools and techniques, including user feedback management mechanisms, to be deployed government-wide as well as by individual agencies.
- 6) The Government should promote the uptake of the digital signature by producing a user-friendly and widely usable application, along with e-payment solutions that should be integrated with all services that would benefit from them, most notably through the e-Kosovo portal.
- 7) The Government should take measures to improve public service accessibility for people with disabilities (including customising e-services and government websites in general) in co-operation with representative organisations of people with disabilities. The OPM should set up a comprehensive system to monitor, evaluate and communicate on the implementation of regulations.

²⁸⁹ EU Regulation on electronic Identification and Trust Services for Electronic Transactions in the Internal Market.


The five highest percentage point increases and decreases for all sub-indicators in the area compared to 2017. Infrastructure for interoperability has improved as has the legal framework for administrative procedures, but the quality of public websites have fallen and user engagement tools are less used



Analysis

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

Overall, the value for the indicator 'Citizen-oriented service delivery' is 2. Compared to the 2019 and 2017 assessments, the indicator value has deteriorated (from 3 in both 2019 and 2017). The development of a comprehensive and coherent strategy and plan of action in the service delivery area is hindered by the lack of a clear institutional set-up and ownership. There is a need to set policy measures aimed at systematic change, to support the government institutions in their service improvement efforts, intervening with authority where necessary to make change happen, and to monitor progress in terms not just of completion of activities, but also performance results.

Indicator 5.1.1 - 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 2021 indicator value	 since 2017 and 2019	0	1	2	3	4	5
		Points 2021	Change from 2019	Change from 2017			
Policy framework for citizen oriented service delivery							
1. Existence and extent of application of policy on service delivery		4/8	-4	-4			
2. Existence and extent of application of policy on digital service delivery		4/8	+4	+4			
3. Central coordination for digital government projects		4/4	=	=			
4. Established policy on administrative simplification		8/12	=	+2			
Performance of citizen-oriented service delivery							
5. Perceived quality of public service delivery by the population (%)		0/6	-2	-2			
6. Renewing a personal identification document		0/6*	=	=			
7. Registering a personal vehicle		0/6	=	-1.5			
8. Declaring and paying personal income taxes		4/6	=	=			
9. Perceived quality of public service delivery and administrative burdens by businesses (%)		0.5/6	-3.5	-1.5			
10. Starting a business		6/6	+1.5	+1.5			
11. Obtaining a commercial construction permit		1/6	-2	-1			
12. Declaring and paying corporate income taxes		4/6	=	=			
13. Declaring and paying value-added taxes		5/6	=	=			
Total		40.5/86	-6	-2.5			

Note: *Data not available or provided. The point allocation in 2017 for sub-indicators 2 and 3 were revised retrospectively due to miscalculations. Points for sub-indicator 2 changed from 8 to 0 and sub-indicator 3 from 2 to 4.

The National Development Strategy 2016-2021²⁹⁰ provided the general policy direction for service delivery in Kosovo, focusing on user-centric service delivery for businesses and citizens, and a reduction in the number of administrative barriers to obtaining licences and permits. The overall objectives were set and operationalised by the Strategy for the Modernisation of Public Administration 2015-2020 (PAMS) and the

²⁹⁰ Adopted by the Government of Kosovo, 22 January 2016.

Better Regulation Strategy 2.0 for Kosovo 2017-2021 (BRS) aimed at reducing administrative burdens for businesses. Both strategies have formally expired. Currently, the Action Plan for 2020-2021²⁹¹ has extended the PAMS, but it is very limited in scope, providing only five activities under three specific objectives.

The Concept Document on Reducing Administrative Burden was approved by the Government in March 2020²⁹². The programme specifies the concrete activities and measures that need to be developed to achieve the goal of reducing the administrative burden by 30% over an 8-year period for business, citizens and administration. Unfortunately, the approach is not to look at administrative procedures in their entirety but only through the lens of unnecessary licences and permits that could be abolished. Five ministries have identified laws that need to be changed to eliminate unnecessary licences and permits, altogether touching upon 82 such requirements, and the first ministries have drafted the necessary legal amendments. Implementation of the BRS has progressed slowly; the 2020 implementation report notes that 47% of planned activities were carried out. The COVID-19 pandemic has significantly affected the slowdown in the implementation of the measures of the programme, but the same measures are foreseen in the Strategic Operational Plan 2021-2025. The Electronic Communications Sector Policy: A Digital Agenda for Kosovo 2013-2020 of the Ministry of Economic Development has also come to an end, but the Ministry has not yet prepared a new draft strategy. Activities in the strategy relating to the creation of a physical internet infrastructure have had positive outcomes, but the objective of providing digital government services, mostly the responsibility of the MIA and the then Ministry of Public Administration (MPA), which merged with the MIA in early 2020, has not taken off. The 38 electronic services currently available fall way short of the target of 70% of services to be offered online. In order to draw more attention to the digitalisation of services and e-governance in general, the Prime Minister has hired a dedicated adviser to shape and drive the digital agenda of the Government (the Chief Technology Officer of the Government)²⁹³.

Currently no formally responsible unit within the MIA being in charge of the service delivery area, the necessity for a clearer institutional set-up and better co-ordination and cohesion between the governmental stakeholders is even more urgent – an analysis already made by SIGMA in 2019²⁹⁴.

An important development has been the initiation of the e-Kosovo portal, which serves as an interface between the citizen or business and the service owner (the institution) without any constraint of time or location (see below for more details).

The satisfaction of citizens with the perceived quality of public service delivery has shown a steady decline since 2018, while the satisfaction of businesses with the perceived quality of public service delivery and administrative burden has dropped sharply over the last year to the 2017 level, both being below the regional average. So, the positive trend in business perception reported in earlier reports has been reversed.

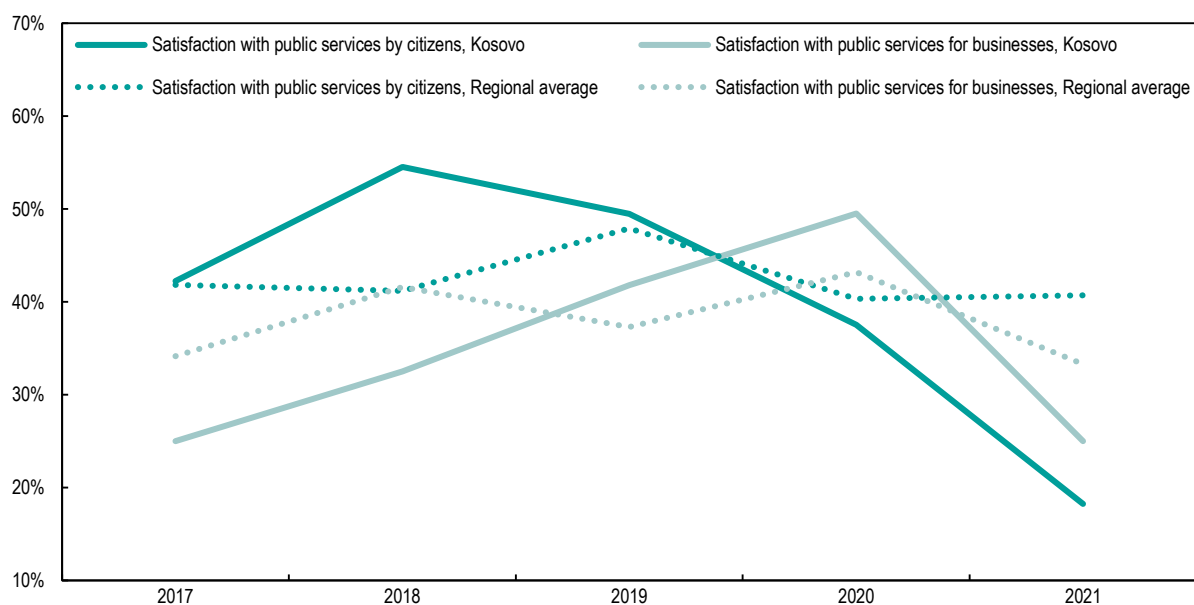
²⁹¹ Adopted by the Government of Kosovo, 2 July 2021.

²⁹² Government Decision No. 03/05 from 6 March 2020.

²⁹³ Interview with Luleon Jagxhiu, Chief Technology Officer of the Government of Kosovo, 4 June 2021.

²⁹⁴ OECD (2019), *Monitoring Report: Kosovo*, OECD, Paris, <http://www.sigmaweb.org/publications/Monitoring-Report-2019-Kosovo.pdf>

Figure 1. Satisfaction with public services in Kosovo is going down



Note: The respondents were asked “Could you please tell how satisfied you are with each of the following in your place of living? The percentage shows the share of citizens and businesses who “strongly agree” or “tend to agree” in relation to the following statements: “Administrative services from central government (such as passports and personal identification [ID])” and “Public services for businesses”. Source: Regional Cooperation Council, Balkan Barometer Public and Business Opinion databases (<https://www.rcc.int/balkanbarometer>).

As observed by SIGMA in its earlier monitoring reports, progress in individual agencies tends to be piecemeal rather than part of a comprehensive transformation of service delivery. In terms of individual services analysed, the process for issuing ID cards is still cumbersome due to the many institutions that must be contacted and the fact that no stage of the process is digital. Similarly, the transfer of vehicle ownership still involves a large number of forms and institutional contacts, and no part of the process is digital.

Starting a business has become an outstanding service, ranking high (globally 12th) on the Doing Business Index. Overall, Kosovo’s ranking in ease of doing business (57th) brings it to the middle of the Western Balkan region²⁹⁵. Applying for a construction permit is still a relatively burdensome process, however the number of procedures has been further reduced from 15 to 12. Besides being able to submit the documents required for business registration to the Business Registration Agency online, one also obtains a unified ID number from the Business Registration Agency, which is then also used by the Tax Administration as the fiscal and VAT number, through one of the 29 municipal one-stop shops around Kosovo²⁹⁶. However, since Kosovo still does not have a functioning e-signature in place, the entrepreneurs must submit hard copies of signed documents upon receiving the business registration certificate.

The Tax Administration is a good example of continuous improvement of service – the annual income tax declaration and annual financial report (for the Ministry of Finance Council of Financial Reporting) have been combined and from 2021 can be submitted through the Electronic Data Interchange (EDI) platform (which existed before).

²⁹⁵ World Bank Group (2020), *Doing Business 2020. Comparing Business Regulation in 190 Economies*, <https://documents1.worldbank.org/curated/en/688761571934946384/pdf/Doing-Business-2020-Comparing-Business-Regulation-in-190-Economies.pdf>.


²⁹⁶ Interview with the Business Registration Agency, 14 April 2021.

Conclusion

Due to the lack of a comprehensive and co-ordinated approach to service delivery improvement, there has been very limited progress over recent years in both the simplification and enhancement of user-friendliness of administrative services for citizens and the digitalisation of services. This has resulted in deteriorating satisfaction figures for both citizens and business. The current Action Plan of the PAMS is very limited in scope, and no clear responsibility is assigned for leading on the service delivery policy.

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

Overall, the value for the indicator 'Fairness and efficiency of administrative procedures' is 4. Compared to 2019, the situation has not changed significantly, but the major difference in comparison with 2017 is that the LGAP has been in force since 21 June 2017. On the other hand, the perception rate has gone down in recent years, and no reliable information is available on the repeals of, or changes to, decisions of administrative bodies made by administrative courts, resulting in the value '0' on this sub-indicator.

Indicator 5.2.1 - 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 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2019	Change from 2017
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	=	+4
Fairness and efficiency of administrative procedures						
3. Perceived efficiency of administrative procedures in public institutions by the population (%)				3/4	-1	=
4. Repeals of, or changes to, decisions of administrative bodies made by the administrative courts (%)				0/4*	-1	=
Total				13/18	-2	+4

Note: *Data not available or provided.

The adoption of the LGAP was an important milestone²⁹⁷. The Law stipulates all the key principles of good administrative behaviour and the sample of laws studied by SIGMA for this assessment were aligned with the LGAP and good governance principles. Some 400 laws were identified as containing administrative procedures, of which 231 contain special procedures which need to be harmonised with the LGAP. While the objective for the harmonisation of special laws with the LGAP has been set as 'at least 15%, 30% and 60% for the years 2018, 2019 and 2020'²⁹⁸, in practice zero laws were harmonised in 2020. The unit in the MPA previously responsible for the harmonisation was transferred to the MIA and had no head in April 2021. It is estimated that, overall, 30% of laws have been harmonised with the LGAP since 2018²⁹⁹.

²⁹⁷ Law No. 05/L-031, Official Gazette, June 2016.

²⁹⁸ PAMS Action Plan 2018-2020.

²⁹⁹ Interview with the MIA, 22 April 2021.

The harmonisation of special laws with the LGAP is a complex and challenging task, but necessary to provide benefits to citizens and businesses. Existing administrative procedures must be aligned with the new principles and standards set out in the LGAP. General awareness-raising and training has taken place, but the impact of the general LGAP principles on operational service delivery practices is not understood. One illustration of non-alignment between the LGAP and special legislation³⁰⁰, specifically the non-application of the 'once only' principle³⁰¹ envisaged by the LGAP, is the process of applying for the ID card.

Both the Ministry of Interior Civil Registration Agency and the Document Obtaining Centres (DOCs) at the municipal level are involved in this procedure. As the first step, the birth certificate extract is issued by the DOC. It costs EUR 1, and the payment constitutes the second step in the procedure (unless, as in some municipalities such as Pristina, the procedure can be initiated and completed through an electronic kiosk). After proof of payment has been submitted by the citizen to the DOC, the application in the Civil Registration Agency information system is initiated by the DOC official. Until recently, birth certificates were still on paper and needed to be scanned by municipalities. This resulted in a situation where the information required for a person's identification was not in digital form but in the form of a digital image. Therefore, the Civil Registration Agency has envisaged that the birth certificate extract will still be required but issued in electronic format to the citizen rather than replacing this procedure with an exchange of data between the offices. Another deficiency of the Administrative Instruction on the Procedure to Obtain the ID, besides a cumbersome procedure requiring the physical presence of the applicant, is that it does not specify any deadlines for the completion of the procedure.

The case above also demonstrates that the alignment of special legislation with the LGAP is not just a legal issue but involves also technological (interoperability) and organisational matters. Currently, there is no structure in place to look at this set of issues in an integrated manner. The MIA co-operates with the Legal Office of the OPM so that no draft law can proceed to the Government agenda without being harmonised with the LGAP³⁰². However, there is no systematic co-operation between the MIA and the Agency for Information Society (AIS) to facilitate the re-design and digitalisation of procedures. The Kosovo LGAP has not been so ambitious as to elevate electronic communication to the status of a basic principle (as is the case in Albania and North Macedonia), therefore exclusively electronic communication in administrative procedures is not a requirement. However, it also leaves Kosovo behind its neighbours when it comes to pressure to digitalise administrative service provision.

Figure 2. Availability of a construction permit application procedure in electronic form

Albania	Kosovo	Montenegro	Republic of North Macedonia	Serbia
Completely electronic	Paper-based	Partially electronic	Completely electronic	Completely electronic

Source: Ligi, T. and Krmecl, A. (2021), 'Implementation of the laws on general administrative procedure in the Western Balkans', *SIGMA Papers*, No. 62, OECD Publishing, Paris, <https://doi.org/10.1787/e5162057-en>.

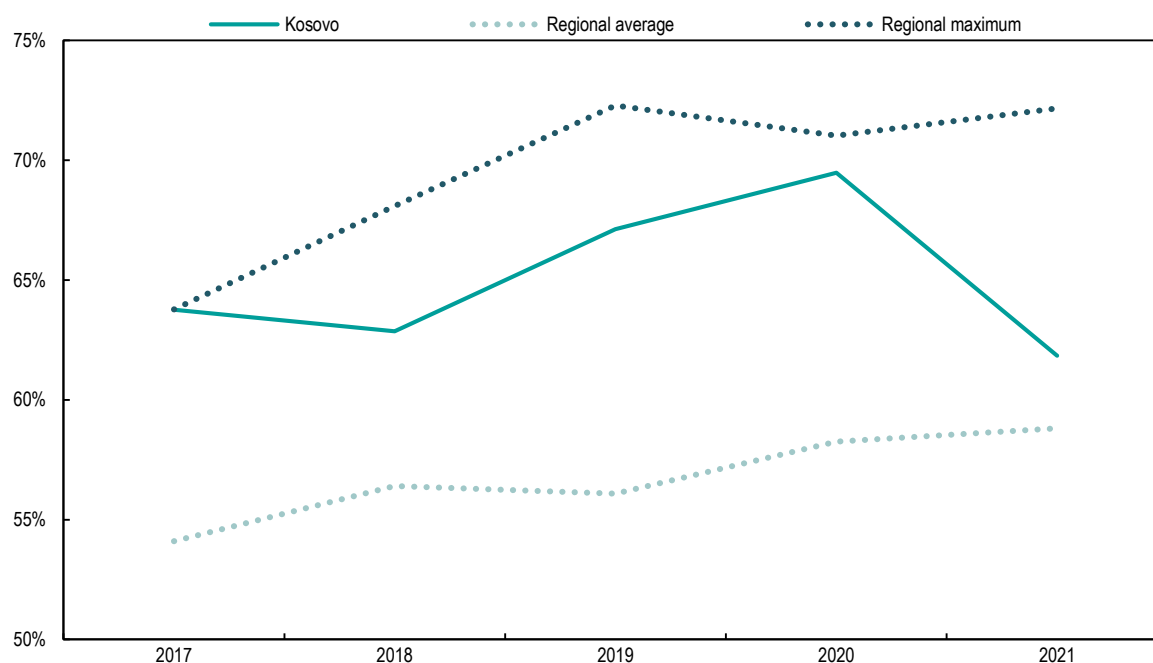
While citizen satisfaction with the perceived efficiency of administrative procedures in public institutions is high, with 62% of respondents being at least mostly satisfied, it has decreased.

³⁰⁰ The Law on Civil Status.

³⁰¹ Art. 86 of the LGAP requires ex-officio investigation by the public body conducting an administrative proceeding.

³⁰² Interview with the MIA, 22 April 2021.

Figure 3. Perceived efficiency of administrative procedures remains high but is going down



Note: Percentages show the average share of citizens who 'strongly agree' or 'tend to agree' to the following question: "Do you agree that the administrative procedures in public institutions in (Kosovo) are efficient?" Only respondents who have been in contact with central government services are included.

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer>).

Conclusion

With the adoption of the LGAP, an important milestone was set. Harmonisation of special legislation with the LGAP has been slow, and separate reform initiatives with the common purpose of administrative simplification and administrative burden reduction require co-ordination. The review of legislation should entail not just legal aspects but also technological and organisational aspects. This would also allow the 'once only' principle to be enforced in practice. For that, a proper organisational set-up and general awareness of the importance of LGAP principles for service delivery practices is needed.

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

Overall, the value for the indicator 'Existence of enablers for public service delivery' is 2. Compared to the 2019 assessment results, there has been no change in indicator value, while compared to the 2017 assessment, it has increased. This is due to the interoperability infrastructure having become operational and the main registers having been integrated with the Government Gateway, the interoperability technical platform. The user engagement sub-indicator value has decreased on the other hand, which could be partly explained by the COVID-19 situation.

Indicator 5.3.1 - 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 2021 indicator value	0	1	2	3	4	5
			Points 2021	Change from 2019	Change from 2017	
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			3/3	=	+2.5	
3. Existence of common standards for public service delivery			0/3	=	=	
4. Legal recognition and affordability of electronic signatures			2/3	=	=	
Performance of central and shared mechanisms for public service delivery						
5. Use of quality-management tools and techniques			0/4	=	=	
6. Adoption of user engagement tools and techniques			1/4	-2	-2	
7. Interoperability of basic registers			2.5/4	+0.5	+0.5	
Total			8.5/24	-1.5	+1	

The weaknesses identified by the previous assessment remain. Most importantly, there are no mechanisms in place to ensure the quality of service delivery. Quality management has not been promoted in the administration, and the initiative to introduce the Common Assessment Framework through Kosovo Institute for Public Administration training in 2018 did not progress in 2020³⁰³. A lead institution and a general approach to promoting quality management and user engagement systems are lacking. The main user feedback mechanism of e-box, an electronic, touch-screen-enabled feedback device installed in at least 60 institutions³⁰⁴, has not been proved useful, particularly due to very limited face-to-face contacts during the COVID-19 pandemic. In 2019, the Agency for Information Society (AIS) conducted a user satisfaction survey in 18 institutions with over 5 400 respondents. However, the report does not allow for any useful conclusions at the individual agency level.

Performance metrics are not in use to keep track of the status and progress of digitalisation across government, because no government institutions monitor service delivery performance. There is no information on the volume of transactions, costs per transaction, digital uptake or user feedback, such as complaints. An inventory of administrative procedures (over 600 of them) collected by the AIS would be the suitable repository into which to collect that information. Overall, the inventory has not been demonstrated to be used in decision-making. The inventory is not used to compare and assess the

³⁰³ Interview with the Kosovo Institute for Public Administration, 14 April 2021.

³⁰⁴ 2019 data, being the last time the AIS conducted a study.

administrative procedures that need to be streamlined and simplified through standardisation and the elimination of redundant requirements, as there is no state institution with a mandate to review the administrative services in their entirety. Such service standards do not currently exist.

The interoperability platform, the Government Gateway, has been operational in technical terms since 2017. Currently, there are 28 interoperable information systems³⁰⁵ compared to 12 in 2019. This reduces substantially the burden on the users to provide information already stored in one part of the administration and requested by another public body, thus making the application of the 'once only' principle technically possible. As discussed in the previous section, this however has not yet materialised in the improvement of the services analysed. One of the biggest problems is that not all the connected registries are exhaustive (for example, the address registry) and containing good quality data, since no central quality assurance is performed.

The issue of digital signatures has not been solved. Legislation to harmonise the digital signature with the EU eIDAS regulation has been sent to the Assembly, but even if it is adopted, there is no clarity about the technical solution for deploying the digital signature. Although it would be easiest to use the existing ID card as the vehicle for digital signatures, the Ministry of Economy believes that this solution would be sub-optimal as, in an era of ubiquitous smart phones and internet connections, users would additionally need to purchase an NFC³⁰⁶ card reader.

The issue of digital payments has not yet been solved either. The solution developed by the Tax Administration of agreeing with individual banks to connect to them directly is not feasible for the rest of the administration due to the high costs involved³⁰⁷. In general, there are still several issues to be solved before the e-payment system can be launched, and no concrete deadlines have been set.

Conclusion

Digitalisation has progressed slowly, although steps have been taken to improve the technical functionality of enabling tools such as the interoperability framework (via the Government Gateway) and the public service inventory. The number of information systems exchanging data over the interoperability platform has substantially increased, although the quality of the registries is insufficient and the 'once only' principle has not materialised in practice. The digital signature and e-payment solutions are still not available. There is a general lack of service standards, systematic and methodological support to service providers and central monitoring of service delivery against established metrics. In the absence of a lead institution, there is no general approach to promoting quality management and user engagement.


³⁰⁵ Information from the AIS.

³⁰⁶ Near-field communication (NFC) is a set of contactless communication protocols between two electronic devices. The Kosovo ID card is equipped with this technology, but the card readers are not readily available and are relatively expensive to buy.

³⁰⁷ Interview with the Central Bank, 19 April 2021.

Principle 4: The accessibility of public services is ensured.

Overall, the value for the indicator 'Accessibility of public services' is 2. The value has deteriorated compared to the 2017 and 2019 assessments. This is due to general dissatisfaction with public services across the territory of Kosovo, and the dissatisfaction of citizens with the accessibility of public services has hit an all-time low in 2021. Also, since 2017, there has been a steady decline in the compliance of tested government websites with the Web Content Accessibility Guidelines (WCAG) 2.0 standard.

Indicator 5.4.1 - Accessibility of public services						
This indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizens' perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.						
Overall 2021 indicator value  since 2017 and 2019	0	1	2	3	4	5
		Points 2021	Change from 2019	Change from 2017		
Policy framework for accessibility						
1. Existence of policy for the accessibility of public services		2/3	=	=		
2. Availability of statistical data on accessibility to public services		2/3	=	=		
3. Adequacy of policy framework for public service users with special needs		2/4	=	=		
4. Existence of common guidelines for government websites		1/2	=	=		
Government performance on accessibility						
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)		0/3	-1	-2		
6. Perceived satisfaction with public services across the territory by the population (%)		0/3	-1	=		
7. Perceived accessibility of digital public services by the population (%)		0/3	-1	-1		
8. Perceived time and cost of accessing public services by the population (%)		3/3	=	+0.5		
Total		10/24	-3	-2.5		

The Government's policy on improving accessibility to administrative services is not articulated. In the PAMS 2015-2020 there was an objective of piloting the development of one-stop shops, but in the extended Action Plan of the PAMS 2020-2021 this objective is no longer being pursued except for delivering digital services through the e-Kosovo portal³⁰⁸. In 2018, the Ministry of Local Government Administration issued an Administrative Instruction on the Functioning of Citizen Service Centres in Municipalities³⁰⁹. The same year, a pilot project was launched in the Municipality of Prizren to build a one-stop shop for accessing administrative services, in co-operation with an international donor and the local government, followed by ongoing projects in Ferizaj, Pristina and Zveqan³¹⁰. Facilities in Prizren were renovated and an initial list of services was prepared, and the citizen service centre was opened in March

³⁰⁸ MIA, Action Plan on the Strategy for the Modernisation of Public Administration 2020-2021.

³⁰⁹ Administrative Instruction of the Ministry of Local Government Administration No. 03/2018.

³¹⁰ Eurenca (2021), *Assessment of the policy framework of digital services offered in Kosovo*, p. 45

2020³¹¹. It only provides local government services, hence its usefulness to citizens is limited. The physical location set-up was accompanied by efforts to simplify administrative procedures, resulting in several improvements. One notable one is that instead of requiring a photocopy of the person's ID card when issuing civil status documents, the applicant can simply show the ID card to an official³¹². Municipalities have also attempted to improve access to administrative services by means of electronic kiosks installed in public spaces (in 2019 there were 42 of these throughout Kosovo), but a study³¹³ revealed that half of them do not function. The Business Registration Agency operates as a one-stop shop for setting up a business through its network of 29 offices.

The e-Kosovo portal³¹⁴ was launched in 2021 as a one-stop shop for digital services. It currently has 36 digital services available to citizens, and the most popular of these is registration for COVID-19 vaccination. Dozens of other services are in the process of being launched, including electronic payments for services, which are in the final stage of testing and will soon be accessible to citizens. The registration and authentication mechanism on the website is quite simple and effective. Besides a 'Services' section there is another one called 'Information', which is a mixture of administrative service descriptions and information about general public services such as public safety. While the language is plain, the information is not instructive and does not enable any interaction with the administration. For example, the application form for getting married is not available on the website, even though reference to it is made under the information section on 'Marriage'. Considering that there are over 600 state-level administrative procedures, the logic by which the services are organised (in both the 'Services' section and the 'Information' section) is critical to making the portal easy to navigate, and the information will have to be updated regularly based on constant interaction with users to provide answers to their practical questions. By July 2021, the portal had gained more than 120 000 registered users and by the end of August there were already 384 000 registered users³¹⁵. However, users have complained that some digital services do not function well on the portal, resulting in a poor user experience and potential frustration with the portal, which may limit its potential to become the gateway to government digital services. Despite the fact that the law on digital signature is in the final stage of approval by the Assembly, the eKosova Platform has been developed in full compliance with the eIDAS Regulation, including electronic signature. This might open possibilities for future positive developments.

This lack of a general approach and progress towards accessible services, both physical and online, has led to general dissatisfaction with public services across the territory of Kosovo and dissatisfaction of citizens with the accessibility of public services according to the most recent Balkan Barometer survey.

³¹¹ Prizren: Perurohet projekti "One Stop Shop", *Prizrenpress*, 9 March 2020, <https://prizrenpress.com/prizren-perurohet-projekti-one-stop-shop/> (accessed 26 August 2021).

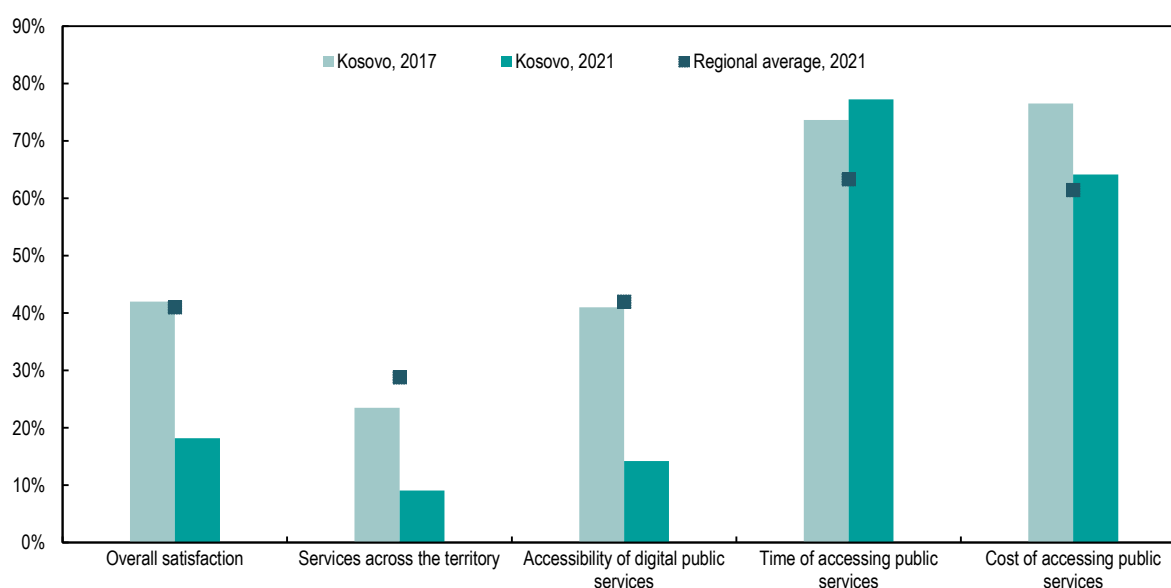
³¹² Municipality of Prizren website, 'Prizren municipality's application of administrative reforms for the provision of simpler and faster services', 29 January 2020, <https://kk.rks-gov.net/prizren/en/news/prizren-municipalities-application-of-administrative-reforms-for-the-provision-of-simpler-and-faster-services/> (accessed 25 August 2021).

³¹³ GAP Institute (2019), *The failure of municipalities to provide administrative services through electronic kiosks*, https://www.institutigap.org/documents/2459_e-kiosks.pdf (accessed on 22 August 2021).

³¹⁴ <https://www.rks-gov.net/EN/>.

³¹⁵ <https://www.rks-gov.net/EN/>, accessed 25 August 2021.

Figure 4. Citizen satisfaction with different aspects of service delivery in Kosovo



Note: The average share of citizens who answered “mostly satisfied” or “completely satisfied” to the statements: “Could you please tell how satisfied you are with each of the following in your place of living?” in relation to: “Administrative services from central government (such as passports and personal identification [ID])”, “Accessibility to public services” and “Accessibility to public services via a digital channel”. The average share of citizens who answered “good”, “very good” and “excellent” to the following question: “How would you grade the following issues?” in relation to: “Time required to obtain public services” and “Price of public services”. *Only those respondents who have been in contact with central government services in the past year are included.

Source: Regional Cooperation Council, Balkan Barometer Public Opinion database (<https://www.rcc.int/balkanbarometer>).

The National Strategy for People with Disabilities 2013-2023 is in place. One of the objectives is about creating the conditions for people with disabilities to enjoy equal access to public facilities and public information. Although its Action Plan for 2018-2020³¹⁶ had set specific targets for improving access to public institutions and health and educational facilities for people with disabilities, providing sign language services, and important information in braille for people with a visual impairment, the most recent implementation report from 2020 is almost silent about the progress made towards reaching these targets³¹⁷. The task of co-ordinating the implementation of the strategy is assigned to the Office of Good Governance of the OPM. The Government reconvened the Council for Persons with Disabilities in June 2021³¹⁸, led by a Deputy Prime Minister, and it held its first meeting on 26 July 2021.

According to HandiKos, a non-governmental organisation dealing with issues of disability, the physical infrastructure remains inadequate, even though accessibility standards and specifications have been in place since 2007³¹⁹. There is poor oversight by local governments and few checks of new constructions by the Construction Inspectorate to ensure the specifications and standards have been met – very often

³¹⁶ Office of the Prime Minister, Office on Good Governance, National Plan for the Rights of Persons with Disabilities in the Republic of Kosovo 2018-2020, <https://kryeministri.rks-gov.net/wp-content/uploads/2019/09/PLANI-NACIONAL-PËR-TË-DREJTAT-E-PERSONAVE-ME-AFTËSI-TË-KUFIZUAR-NË-REPUBLIKËN-E-KOSOVËS-2018-2020-002.pdf>.

³¹⁷ Office of the Prime Minister, Office on Good Governance, Progress Report on the Rights of Persons with Disabilities in the Republic of Kosovo 2020.

³¹⁸ Decision of the Government No. 13/16 from 22 June 2021.

³¹⁹ Under the Law on Construction, Administrative Instruction No.33/2007 for Construction of Buildings Technical Terms of Accessibility to Disabled Persons, Official Gazette of 18 June 2007.

they are not. When attempts are made to improve accessibility retrospectively, there is very little consultation with people with disabilities on the proposed solutions, resulting in poor outcomes³²⁰.

There is poor compliance of government websites with the international WCAG. Although the application of that standard is not compulsory in Kosovo, websites contain many errors³²¹, limiting their accessibility for users. Some government agencies, such as the Civil Registration Agency, do not have a website, contrary to the legal requirement³²².

Conclusion

Government policy on improving accessibility to public services is limited to providing more services through e-Kosovo portal and does not address over-the-counter service delivery. The creating of one-stop shops has proceeded more slowly than planned. The Strategy for People with Disabilities 2013-2023 is in place, but accessibility to public buildings remains poor, despite the adequate regulatory framework. Government websites continue to contain many errors, as there is no standard to which they must adhere. Citizens' satisfaction with accessibility to public services is low.

³²⁰ Interview with HandiKos, 25 April 2021.

³²¹ SIGMA testing in 2021 found on average 30 errors, compared to 14 errors in 2017 and 29 errors in 2019.

³²² Administrative Instruction of the Ministry of Public Administration No. 01/2015 on the Websites of Public Institutions.

Public Financial Management

The Principles of Public Administration

Public Financial Management

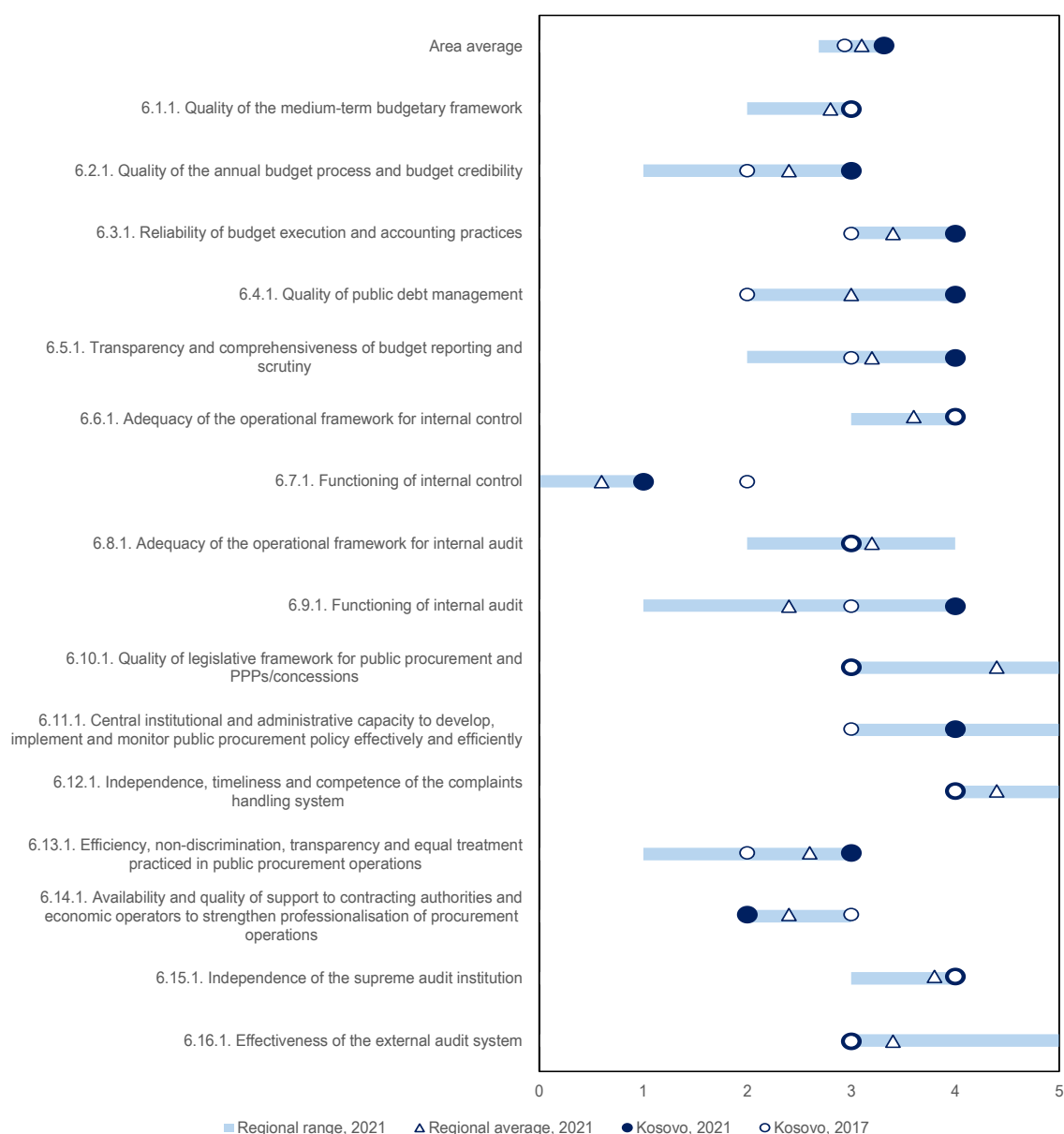
Budget Management	
Principle 1	The government publishes a medium term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.
Principle 2	The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium term budgetary framework and are observed.
Principle 3	The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.
Principle 4	There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt servicing costs are kept under control.
Principle 5	Transparent budget reporting and scrutiny are ensured.
Internal audit and control	
Principle 6	The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.
Principle 7	Each public organisation implements internal control in line with the overall internal control policy.
Principle 8	The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.
Principle 9	Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.
Public Procurement	
Principle 10	Public procurement regulations (including public private partnerships and concessions) are aligned with the European Union acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.
Principle 11	There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.
Principle 12	The remedies system is aligned with the European Union acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.
Principle 13	Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.
Principle 14	Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.
External audit	
Principle 15	The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.
Principle 16	The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

Public Financial Management

Summary and recommendations

The overall trajectory for Kosovo in the public financial management (PFM) area is upwards. Kosovo's area average of 3.3 is one of the highest compared to its neighbours in the region and has increased from 2.9 in 2017. The relatively stronger performance compared to the region and 2017 applies to a number of indicators across the PFM area, in particular those related to public expenditure management. The indicators for public internal financial control (PIFC) show a more mixed picture, with the functioning of internal control remaining an area of weakness. The external audit indicators are broadly consistent with the regional average and 2017.

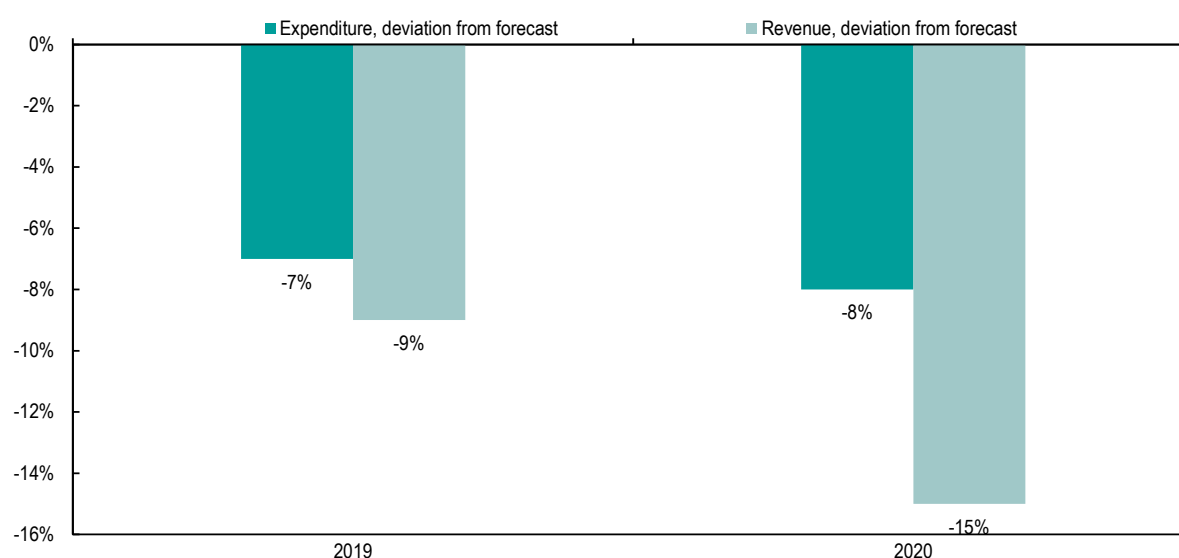
The area average is the highest in the region and higher than in 2017 because of improvements in public expenditure management



The quality of the medium-term budgetary framework³²³ has been strengthened with additional content that is relevant for informing decisions. The budget calendar is reasonable and adhered to, and **the quality of the annual budget process and budget credibility has improved**, reflecting an improvement in operational alignment between the medium-term expenditure framework (MTEF) and the annual budget process and greater transparency of the budget proposal before its adoption by the Assembly. However, some gaps do remain in the information provided, including non-financial performance information, and the ability to make amendments to the approved budget appropriations by up to 25% without parliamentary oversight is a concern.

The credibility of the medium-term revenue and expenditure plans needs to be strengthened. At an aggregate level, there were significant deviations in 2020 between actual outturns and forecasts for both revenue (15.3%) and expenditure (7.7%), although these were affected by the COVID-19 pandemic. However, there were also significant deviations in 2019 between the revenue and expenditure outturns and forecasts, with deviations of 8.7% and 7.2%. This signals challenges for the Kosovo authorities to estimate the revenues more realistically or to collect the revenues effectively.

Difference between medium-term budgetary forecasts and outturn, 2019 and 2020



Note: Figures are for central government.

Source: Planned figures are from the relevant MTEFs (e.g. for 2019, the MTEF 2018-2020). Outturn data is from the Annual Financial Statement of Budget Execution.

The Government has established clear quantitative fiscal rules and has not violated them within the last two fiscal years, although an independent authority to support the rigour of the budgeting process, such as a fiscal council, has not been established. Large capital investment decisions generally lack independent and transparent appraisal of the costs and benefits which could also put a strain on the budget in future years.

The reliability of budget execution and accounting practices and the quality of public debt management have been strengthened since the previous assessment in 2017, as a result of improvements in the credibility of cash flow planning and public debt management practices. While the level of public debt as a proportion of gross domestic product (GDP) has been on an upward trajectory since 2016 when it was 14.4%, it is still relatively low risk at only 21.8% of GDP.

³²³ 'Medium-term expenditure framework' is the formal title used in Kosovo for the medium-term budgetary framework.

There has been **progress in the transparency and comprehensiveness of budget reporting and scrutiny** with frequent and comprehensive in-year reporting and timely publication of annual financial statements for central and local government, although there are some gaps in the information provided. However, there are weaknesses in the monitoring of fiscal risks and in the transparent reporting on the financial performance of state-owned enterprises that need to be addressed.

The **regulatory and operational framework for internal control** is largely established with appropriate strategies in place. However, **the effective implementation of internal control lags behind the development of the overall framework**. There is a reasonable level of delegation of decision-making authority within ministries. However, risk management and reporting on irregularities need further development, and basic accountability mechanisms between ministries and subordinated bodies are not operating effectively.

The **regulatory and operational framework for internal audit (IA) is largely complete, broadly in line with the requirements of international standards, and there has been progress in its application**. However, while the establishment of IA units has improved, not all are staffed in line with the legal requirements, and there are a number of single-person units. There has been an improvement in the proportion of IA units implementing IA in line with the IA operational policies, but there are still some significant areas for improvement, and the impact of the work continues to be limited.

No specific progress related to the legal framework for public procurement has been registered since 2016. The last change to the Law on Public Procurement (PPL)³²⁴, the amendment adopted in December 2020³²⁵, introduced 15% domestic preferential treatment until 31 December 2021, which drastically affected the principles of equal treatment and non-discrimination and was not in line with the commitments in the Stabilisation and Association Agreement (SAA). In general, the regulatory framework in public procurement and public-private partnerships (PPPs) and concessions³²⁶ reflects the fundamental EU Treaty principles of transparency, equal treatment and non-discrimination, but it needs modernisation and is not fully in line with the relevant 2014 EU Directives.

Activities on adoption of the new PPL and a new PPP Law have commenced in 2020, but the drafting process is moving slowly.

The current National Public Procurement Strategy 2017-2021 does not cover PPPs/concessions; neither does it cover other important aspects, such as green procurement, social procurement and innovations. There are no publicly available reports on the implementation of the Strategy, and the Action Plan has not been updated since 2019. In particular, there is a need to strengthen the administrative capacities of the Monitoring Department of the Public Procurement Regulatory Commission (PPRC), as well as the Central Procurement Agency (CPA). Significant concerns are caused by a long period of incomplete composition of the Procurement Review Body (PRB), followed by no functioning of the PRB board since March 2021. The lengthy periods with non-appointment of all the PRB board members has been affecting the effectiveness of the review procedures.

As regards the procurement operations, an advanced e-procurement platform has been implemented, covering all the stages of the procurement process. There are also newly introduced tools for improving contract management and performance evaluation on the platform. Procurement plans are not published, although they are accessible after registering on the platform. The main challenges are

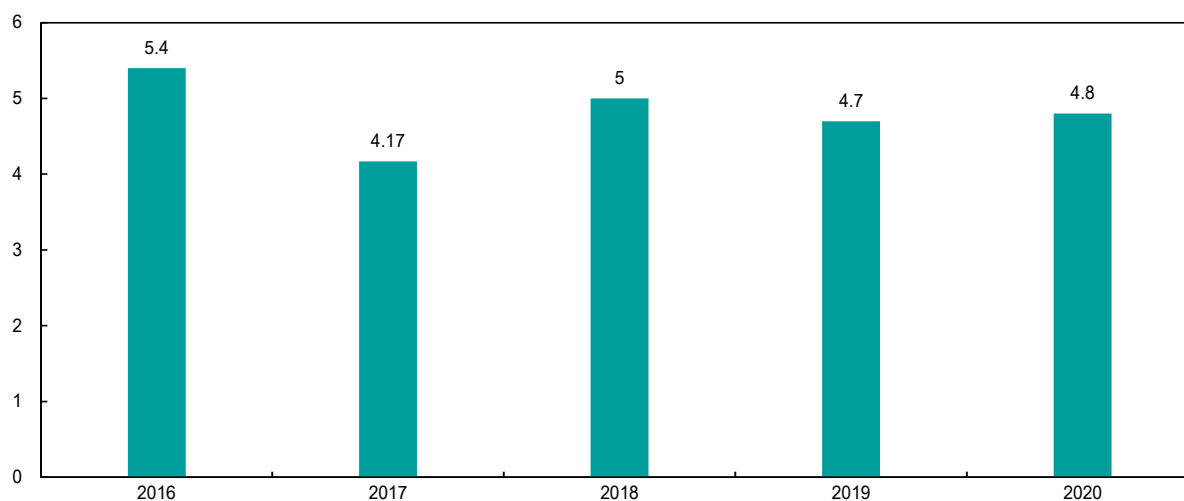
³²⁴ Law No. 04/L-042 on Public Procurement in Republic of Kosovo, Law No. 05/L-068 amending and supplementing Law No. 04/L-042 on Public Procurement, amended and supplemented with Law No. 04/L-237, Law No. 05/L-092 amending and supplementing Law No. 04/L-042 on Public Procurement, amended and supplemented with Law No. 04/L-237 and Law No. 05/L-068.

³²⁵ Article 13 of the Law No. 07/L-016 on Economic Recovery – COVID-19, adopted December 2020.

³²⁶ Law No. 04/L-045 on Public Private Partnership of 2011.

linked to poor planning and cost estimation, the issue of systematic artificial splitting of contracts and the excessive use of the lowest-price criterion.

The average number of participants in competitive procurement procedures remains fairly high



Source: Reports on public procurement activities in Kosovo for 2018, 2019 and 2020.

Training for and certification of procurement professionals continued to be delivered during 2020, despite the constraints of the COVID-19 pandemic. Relevant manuals and training materials have been published and some standard procurement documents have been updated, although there are some notable gaps due to a lack of practical examples.

There has been no significant change to the independence of the supreme audit institution (SAI) since the 2017 assessment. **The framework for the National Audit Office (NAO) is aligned to international standards and continues to be applied and respected in practice.** The July 2020 judgement of the Constitutional Court further emphasised its independence from the Executive. With respect to the effectiveness of the external audit system, the implementation of the International Standards of Supreme Audit Institutions (ISSAIs) is well progressed in the NAO, but there is still room for improvement, particularly in quality assurance arrangements. **The NAO's audit reports are used by the Assembly to scrutinise the Executive. However, the implementation rate of the recommendations remains low, limiting the impact of the NAO.**

Short-term recommendations (1-2 years)

- 1) The role of the Assembly in the evaluation and decision making of the MTEF should be strengthened to increase its importance in ensuring the predictability and stability of the public financial management system. This should be supported by the establishment of an independent authority, such as a fiscal council to review the MTEF and budget proposals before their approval by the Assembly, to increase the credibility of government fiscal projections and the sustainability of public finances in the medium term.
- 2) The Government's capacity to prepare budget revenue forecasts and manage cash flow forecasts should be improved to ensure the fulfilment of commitments made by budget organisations (BO) during the year and to avoid expenditure arrears. The MoF should also publish the stock and composition of expenditure arrears at least quarterly, to increase the Government's accountability for the fulfilment of commitments and timely payments.
- 3) The MoF should further develop annual financial reporting. This should include reporting on non-financial performance information and capital investment project expenditure variations to increase the Government's accountability for achieving planned goals and objectives, and the productive and efficient use of budget funds.
- 4) The Central Harmonisation Unit (CHU) should work with ministries to develop plans for implementing performance management systems for managing and monitoring subordinated bodies, which includes establishing objectives and measurable targets, monitoring of progress and reporting on performance.
- 5) The CHU should develop a plan that takes into account the capacity of the institutions and sets realistic deadlines for the full implementation of the risk management system in each central government body, to ensure that the risk management system works in practice.
- 6) The CHU should continue to look at ways of reducing the numbers of single-person IA units and explore the scope for more combined units to provide a critical mass of staff to enable internal quality control and allow for career progression. The CHU should also develop and implement a continuous professional development programme for internal auditors.
- 7) The CHU should develop mechanisms to enhance the accountability of the heads of budgetary institutions for the timely implementation of IA recommendations. The CHU should also develop further guidance for IA units on the development and wording of recommendations and their follow-up to improve implementation rates.
- 8) The Assembly should immediately abolish legal provisions on domestic preferential treatment.
- 9) The MoF/PPRC/Government should finalise the draft of the primary and secondary public procurement legislation and the Assembly should adopt the new PPL and PPP Law, in order to ensure harmonisation with the 2014 EU Directives.
- 10) The PPRC/Government should adopt a new strategic framework for the period after 2021, covering also PPPs and concessions.
- 11) The Government/the Assembly should immediately appoint the PRB board members. The new PPL should contain provisions preventing situations where the PRB is not functional or where the provisions of the PPL regarding the number of PRB board members cannot be respected.
- 12) The NAO should consider separating compliance audits from financial audit work in order to concentrate on implementing efficient, evidence-based financial audits and to carry out government-wide thematic compliance audits.
- 13) The NAO should approve and implement an ISSAI-compliant audit quality assurance system.

Medium-term recommendations (3-5 years)

- 14) The MoF should include targets for the sectoral policy objectives in the MTEF aligned to the Government's overall policy planning. The MoF should also develop the budget documents to include information on contingent liabilities and new policy initiatives, as well as information on the independent assessment, cost-benefit analysis and future operating costs of large investment projects.
- 15) The MoF should establish a system for the identification, monitoring and annual reporting of fiscal risks in the budget, to ensure the stability of the implementation of the annual budget and to reduce the risk of unplanned commitments.
- 16) The MoF should consider moving from centralised control to a more decentralised management of resources, as institutions strengthen their internal control processes and demonstrate effective management of their resources. This would increase the role of sector ministries in the budget cycle and strengthen their responsibility for the sectors for which they are mandated.
- 17) The CHU should establish formal procedures for IA quality assurance in line with the Institute of Internal Auditors standards, to ensure the quality of IA and that it operates in accordance with legal requirements.
- 18) The Government should strengthen the capacities of the PPRC, in particular its monitoring department and the CPA.
- 19) The PRB should review the PRB website and improve its accessibility and the search options for the review decisions, as well as the management and reporting system.
- 20) The PPRC and PRB should improve the current (formal) mechanisms for co-ordinating the interpretation of procurement legislation, while acknowledging the need for institutional independence.
- 21) The NAO should consider programming specific follow-up audits on recommendations in order to identify and address the root causes for the high rate of non-implementation, with a view to improving the implementation rate.

Analysis

Budget management

Principle 1: The government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.

Overall, the value for the indicator 'Quality of the medium-term budgetary framework' is 3, the same as in 2017. While the framework has been strengthened, the credibility of the medium-term revenue and expenditure forecasts has decreased.

Indicator 6.1.1 - Quality of the medium-term budgetary framework					
This indicator measures how well the medium-term budgetary framework (MTBF) is established as a fiscal plan of the government, focusing on the process of budget preparation and four areas that influence the quality of the budget documents. A good MTBF should increase transparency in budget planning, contribute more credible forecasts and ultimately lead to a better general government budget balance.					
Overall 2021 indicator value	0	1	2	3	4 5
				Points 2021	Change from 2017
1. Strength of the medium-term budgetary framework				9/12	+2
2. Strength of the fiscal rules				3/5	=
3. Credibility of medium term revenue plans (%)				2/4 ³²⁷	-2
4. Credibility of medium-term expenditure plans (%)				2/4 ³²⁸	-2
Total				16/25	-2

The MTEF is adopted by the Government on an annual basis for a minimum of three years and published before the annual budget law is presented to the Assembly³²⁹. The MTEF 2021-2023 was prepared and submitted by the Government to the Assembly by 30 April 2020 for information. The Committee for Budget and Finance's main task is to discuss all matters relating to the budget and finances in Kosovo³³⁰. The MTEF is usually discussed in the Committee on Budget and Finance in one meeting without taking any decision, but in 2020 the MTEF 2021-2023 was not discussed in the Committee, citing the situation with the COVID-19 pandemic.

The fiscal framework of the MTEF 2021-2023 includes medium-term budget projections for revenues and expenditures for the general government and contains macroeconomic and fiscal forecasts, including main economic indicators (such as inflation, GDP and exchange rates), an analysis of changes in the allocation of financial resources, an analysis of budget expenditures by main economic category and expenditure ceilings for each budget organisation (BO).

³²⁷ The sub-indicator was determined on the basis of 2019 data due to the COVID-19 pandemic in 2020.

³²⁸ The sub-indicator was determined on the basis of 2019 data due to the COVID-19 pandemic in 2020.

³²⁹ Law No. 03/L-048 on Public Financial Management and Accountability, Article 19.

³³⁰ Rules of Procedure of the Assembly of the Republic of Kosovo, Annex 2.

The MTEF presents the projections for the general budget of Kosovo at the central level and by ten sectors³³¹. The budget ceilings for each institution approved by the Budget Law 2021 were consistent with the ceilings in the MTEF 2021-2023.

The MTEF includes information on the general government budget deficit as a percentage of GDP, the stock of debt, state guarantees and debt as a percentage of GDP for the budget year and for the following two fiscal years. It also presents the main goals and the main objectives for each of the ten central government sectors for the next three-year period, but indicators and targets are not included. The MTEF does not include funding under the Instrument for Pre-accession Assistance.

The Government has established clear quantitative fiscal rules for the total level of public debt (40% of GDP) and the deficit (2% of GDP). The Law on Public Financial Management and Accountability (LPFMA) provides for a correction procedure, where the deficit ceiling can be temporarily increased in certain exceptional cases, and that such an increase in the deficit ceiling can be allowed for a maximum of 5 years³³². If the total debt were to exceed 40% of GDP, the Government is required to present to the Assembly a strategy to bring total debt back under the threshold within one year. Such a strategy would then be included in subsequent annual budget laws³³³.

Within the last two fiscal years, the Government has not violated the fiscal rules set in the annual budget law. The Budget Law 2019 set the budget balance rule at -2.0% of GDP (EUR -145 million), and the outturn was -0.47% of GDP or EUR -33 million; for 2020 the original budget balance rule was set at -2% of GDP (EUR -147 million), but in the revised Budget adopted by the Assembly on 28 July 2020 the budget balance was set at -6.5% of GDP (EUR -451 million) and the outturn was -5.2% of GDP (EUR 364 million). The public debt outturn in 2019 was 17.5% of GDP, and it was 21.83 % of GDP in 2020.

The LPFMA³³⁴ does not provide for an independent institution, such as a fiscal council, to give its assessment of the forecasts prepared by the Government and the draft budget law.

The COVID-19 pandemic affected revenue and expenditure outturns in 2020 and therefore impacted on the credibility of the medium-term plans. There were significant deviations between actual outturns and forecasts for both revenue and expenditure. Figure 1 shows that revenue and expenditures in 2020 were lower than planned by 15.3% and 7.7% respectively. However, it also shows that there were also significant deviations between the revenue and expenditure forecasts and outturns for 2019, with deviations of 8.7% and 7.2%.

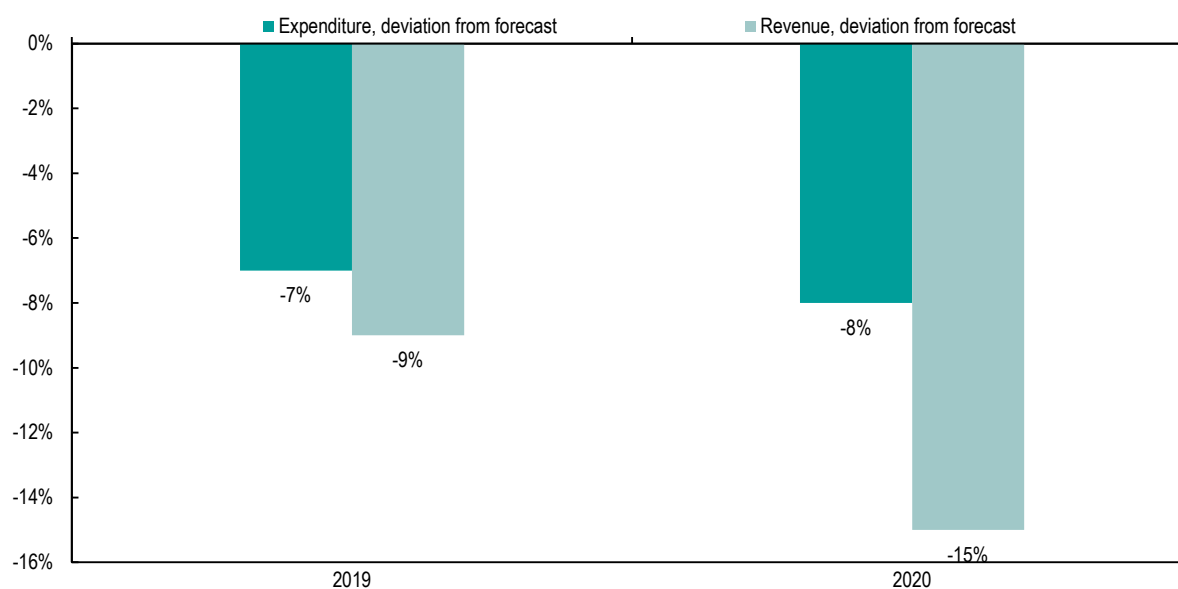
³³¹ General public governance; defence; rule of law sector and public safety; economic issues; environment; housing and community issues; health; recreation, culture and religion; education; social protection.

³³² Law on Public Financial Management and Accountability, Articles 22A and 22B.

³³³ Law No.03/L-175 on Public Debt, Article 5.

³³⁴ Law on Public Financial Management and Accountability.

Figure 1. Difference between medium-term budgetary forecasts and outturn, 2019 and 2020



Note: Figures are for central government.


Source: Planned figures are from the relevant MTEFs (e.g. for 2019, the MTEF 2018-2020). Outturn data is from the Annual Financial Statement of Budget Execution.

Conclusion

The MTEF is comprehensive, and the sector budget ceilings are respected in the Budget Law. However, it does not include non-financial performance information and the credibility of the medium-term revenue and expenditure plans needs to be strengthened. The Government has established clear quantitative fiscal rules and has not violated them within the last two fiscal years, although an independent authority such as a fiscal council has not been established.

Principle 2: The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.

Overall, the value for the indicator ‘Quality of the annual budget process and budget credibility’ is 3. The value has increased from 2 in 2017, which reflects improvement in the operational alignment between the MTEF and the annual budget process, and in the transparency of the budget proposal before its adoption in the Assembly.

Indicator 6.2.1 - Quality of the annual budget process and budget credibility						
This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multi-annual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
	Points 2021	Change from 2017				
1. Operational alignment between the MTBF and the annual budget process	4/4	+3				
2. Reliability of the budget calendar	3/4	-1				
3. Transparency of the budget proposal before its adoption in parliament	4/8	+2				
4. Quality in the budgeting of capital investment projects	2/5	-1				
5. Parliamentary scrutiny of the annual budget	2/5	+1				
6. Transparency and predictability of procedures for in year budget adjustments	3/4	+1				
7. Credibility of revenue plans in the annual budget (%)	2/4	=				
8. Credibility of expenditure plans in the annual budget (%)	1/4	-2				
Total	21/38	+3				

Note: Overall 2017 indicator value and its sub-indicators were revised retrospectively due to errors related to manual data entries. Points for sub-indicator 7 changed from 0 to 2 and sub-indicator 8 from 0 to 3. Due to the change 2017 indicator value changed from 1 to 2

The annual budget calendar is fixed in the LPFMA³³⁵. The official budget calendar was respected during the latest full calendar year. The MTEF 2021-2023 was approved by Government and sent to the Assembly by 30 April. The MoF issued Budget Circular 2021/1 on 15 May. The revised MTEF 2021-2023 was approved by Government on 14 September 2020. The revised Budget Circular 2021/2 was sent out by the MoF on 16 September 2020 with a request to budget institutions to submit budget requests by 24 September 2020. As a result, BOs had less than six weeks to develop revised budgets. The Government approved the draft Budget Law 2021³³⁶ and submitted it to the Assembly on 31 October 2020, which is in line with the LPFMA but short of good practice³³⁷. After the approval of the draft Budget Law in the first reading in the plenary session, it is reviewed by the Committee on Budget and Finance and the permanent committees³³⁸. The Assembly approved the Budget Law 2021 on 29 December 2020. Before

³³⁵ Law on Public Financial Management and Accountability, Articles 19-22.

³³⁶ Law No. 07/L-041 on the Budget 2021.

³³⁷ OECD best practice promotes a three-month period for parliaments to debate the annual budget. OECD (2002), ‘OECD best practices for budget transparency’, *OECD Journal on Budgeting*, Vol. 1/3, <http://dx.doi.org/10.1787/budget-v1-art14-en>.

³³⁸ The Committee on Legislation, the Committee on Communities and Returns, and the Committee on European Integration.

the vote on the annual budget law, the Assembly does not receive a report on the budget proposal from a professional body independent of government (such as a fiscal council or similar).

The first-level BOs provided comprehensive inputs to both the MTEF 2021-2023 and the 2021 budget proposal at the level of programmes, sub-programmes, expenditure categories and projects within the budget ceilings set for 2021 and the two following years³³⁹. The aggregate and sector expenditure ceilings established in the revised MTEF were not exceeded in the Budget Law.

The Budget Law 2021³⁴⁰ states that macro fiscal projections and assumptions for the budget are based on the updated macro fiscal framework 2021-2023. It also contains an overview of the economic environment in which the budget was prepared, the recommendations for a short- and medium-term fiscal strategy and an explanation of all key economic assumptions used when developing the budget. It determines budget appropriations on a programme and sub-programme level and includes a list of investment projects for both the central and local government. Investment projects of more than EUR 1 million are included in the budget, but they are not subject to independent appraisal. Due to the lack of fiscal space, no new policy initiatives were proposed in the 2021 budget.

The budget documentation is submitted to Assembly to support the budget law. However, this does not contain information on contingent liabilities, the future operating costs of investment projects or non-financial performance information and indicators related to the objectives and activities of BOs. Some information on fiscal risks is also provided in the MTEF 2021-2023, including risks from contingent liabilities, under-execution of capital expenditure, revenue collection and litigation costs.

The budget documentation is not developed based on the European System of National and Regional Accounts (ESA).

The LPMFA³⁴¹ gives the Minister of Finance and the Government a great deal of freedom to reallocate budget appropriations during the year, and the Assembly's approval for reallocations of budgetary appropriations is only needed if the amount is equal to 25% or more of the affected appropriation. Amendments to the 2020 Budget were approved by the Assembly on 28 July 2020, and it was the only amendment passed in 2020. The Annual Financial Statement (AFS) on the execution of the budget³⁴² includes data on budget amendments, which for 2020 were EUR 266.7 million.

Conclusion

The budget is comprehensive, the budget classification is detailed, and the annual budget process is well-embedded in the medium-term financial framework. However, the budget documentation does not include information on new policy initiatives, contingent liabilities and the appraisal and recurrent costs of large investment projects. The Government can also make budget adjustments up to 25% of affected appropriations without parliamentary oversight.

³³⁹ The Annual Budget Circular and Instruction for the preparation of the Medium Term Expenditure Framework 2021-2023.


³⁴⁰ The Budget Law 2021.

³⁴¹ Law on Public Financial Management and Accountability, Article 30.

³⁴² Annual Financial Report for the year ended 31 December 2020, published April 2021, <https://mf.rks.gov.net/desk/inc/media/B805BE58-DD6E-454E-A730-10922B74DD4A.pdf2021>.

Principle 3: The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

Overall, the value for the indicator ‘Reliability of budget execution and accounting practices’ is 4. The value has increased from 3 in 2017, as there has been improvement in the credibility of cash flow planning.

Indicator 6.3.1 - Reliability of budget execution and accounting practices						
This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.						
Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
	Points 2021	Change from 2017				
1. Presence of a treasury single account (TSA)	2/2	=				
2. Frequency of revenue transfer to the TSA	1/1	=				
3. Frequency of cash consolidation	1/1	=				
4. Credibility of cash flow planning	2/2	+1				
5. Budget classification and chart of accounts	2/2	=				
6. Frequency of bank account reconciliation for all central government bank accounts	2/2	=				
7. Availability of data on the stock of expenditure arrears	1/2	=				
8. Expenditure arrears (%)	0/3	=				
Total	11/15	+1				

All public money is deposited in the Kosovo Consolidated Fund, and all transactions involving funds within the Kosovo Consolidated Fund are conducted through the Treasury Single Account (TSA).

All entities collecting central government revenues transfer the collections daily into the TSA. The Treasury consolidates all central government bank balances daily, and the suspense account is used and cleared daily.

Within 30 days of the approval of the Budget Law by the Assembly, every BO is required to prepare and submit to the General Director of the Treasury a proposed allocation plan that details its expected cash needs over the fiscal year. The Treasury prepares the cash flow forecast and updates it monthly, based on expenditure and revenue forecasts received from all first-level BO.

The Treasury prepares the cash flow forecast for the fiscal year broken down not only between pay, non-pay current, capital and own resources, but also by 3-digit economic classification for each first-level BO.

The presentation of financial information, such as receipts, expenditures and financing, in the proposed budget and the format of the documentation therein is comprehensive, transparent and consistent with the government financial statistics cash basis classification system. It permits the analysis of commitments and expenditures by BO, by functional and economic category, and is based on the applicable standards.

Within 30 days of the end of each quarter, the Treasury prepares and publishes quarterly financial reports. Each quarterly report includes information on the revenues, expenditures, investments, liabilities and commitments of each first-level BO, including local government, but does not contain information on expenditure arrears.

The Annual Financial Statement of Budget Execution contains information on the total central government outstanding payments, and at the end of 2020 they were EUR 109.6 million. Out of this, arrears totalling EUR 89.3 million were greater than 30 days old, and EUR 20.3 million of arrears were less than 30 days old³⁴³. The central government expenditure arrears as a share of the total budget were 4.57% and for the general government 5.4%.

Conclusion

All public funds are channelled through the TSA. The records in the Treasury's general ledger are reconciled regularly with BOs' accountings records and information on bank transactions. The Treasury system considers BOs' cash flow forecasts and includes commitment controls. However, the stock of expenditure arrears remains a weakness.

Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt servicing costs are kept under control.

Overall, the value for the indicator 'Quality of public debt management' is 4. The value has increased from 2 in 2017 due to an improvement in public debt management practices.

Indicator 6.4.1 - Quality of public debt management						
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to gross domestic product (GDP), and the difference between public sector debt outturn and target.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Existence of requirements and limitations for borrowing in the legal framework					2/3	=
2. Existence and minimum content of a public debt management strategy					4/4	+4
3. Clarity of reporting on public debt					2/4	=
4. Risk mitigation in the stock of public debt					5/6	+2
5. Difference between public sector debt outturn from target (%)					3/3	+3
6. Public debt as a share of GDP (%)					2/2	=
Total					18/22	+9

The definition of public debt³⁴⁴ includes debt issued on behalf of the central government institutions but does not include debt issued on behalf of municipalities and public enterprises and is not in line with ESA2010. The MoF is the sole entity authorised to incur state debt, and the Minister of Finance is the only entity responsible for the management and administration of state debt³⁴⁵. The annual budget law³⁴⁶ articulates the planned levels of domestic and foreign debt as well as state guarantees in absolute terms and as a percentage of GDP for the next three years. All borrowing is related to the financing of expenditures approved in the annual budget law.

³⁴³ Annual Financial Report for the year ended 31 December 2020, Annex No.12.

³⁴⁴ Law on Public Debt, Article 2, point 19.

³⁴⁵ Law on Public Financial Management and Accountability and Law on Public Debt.

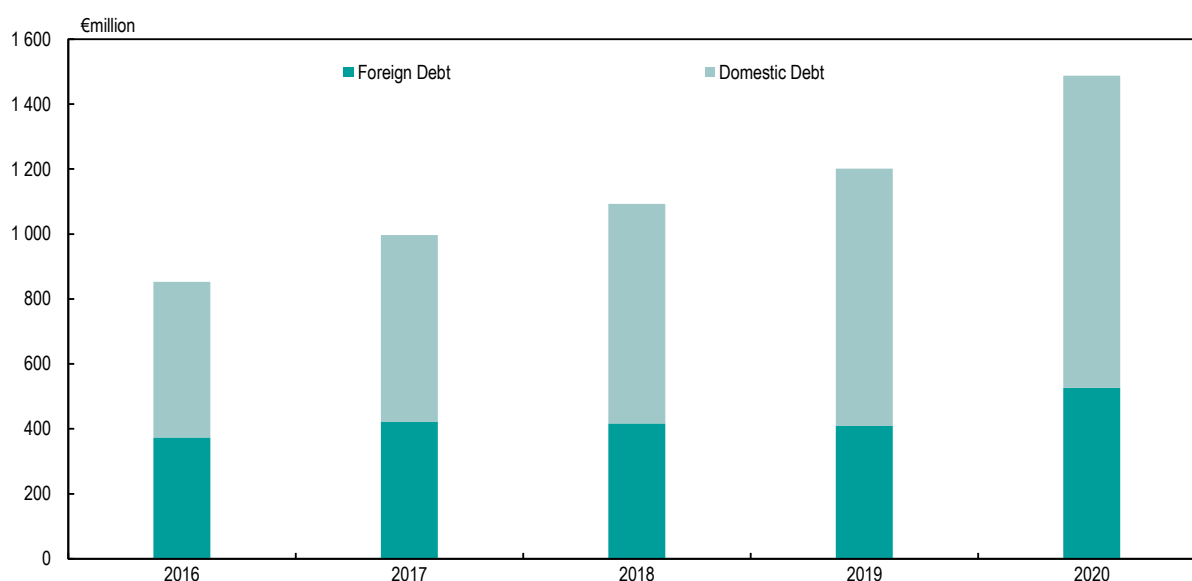
³⁴⁶ Budget Law 2021.

In April 2020, the MoF submitted to the Government for approval and to the Assembly for information the State Debt Programme for the period 2021-2023, which provides the national debt policy and debt management strategy. It provides an overview of the structure and trend of total debt, including international and domestic debt, and state guaranties from 2013 to 2019, gives information on the current debt stock, and defines the objectives of the Government for managing the debt portfolio for the next three years.

The Treasury reports to the Minister of Finance on the status of the public debt on a monthly basis and publishes key public debt indicators on the MoF's website on a quarterly basis³⁴⁷. The Treasury Annual Bulletin 2020 on public debt was published in April 2021 and includes a breakdown of the domestic and foreign debt, the currencies it is denominated in and the years when it is maturing. It indicates that 92% of total debt is denominated in the national currency (EUR) and 8% is floating-rate debt. The report does not include information comparing the approved debt targets (ceilings) with the actual debt level or on the total debt to be repaid in the following year. Generally, to hedge against the possibility of speculation, information on the amount of debt to be repaid each year is not published. Data submitted by the Treasury on the total debt to be repaid in 2021 indicated debt principal repayment as 6.45% of total debt.

The outstanding principal amount of total debt is limited by law³⁴⁸ and cannot exceed 40% of GDP. If total debt were to exceed this, the Government is required to present to the Assembly a strategy to bring it back under the threshold. While the level of debt has been gradually increasing, at the end of 2020 the total debt was still only 21.83% of GDP. Figure 2 shows the level of foreign and domestic debt between 2016 and 2020.

Figure 2. Breakdown of public debt by foreign and domestic borrowing, 2016-2020



Source: Ministry of Finance Quarterly Data on Total Debt: Fourth Quarter 2020, January 2021

The Law³⁴⁹ regulates municipality borrowing, including the authority to borrow, reporting requirements and the debt limits. Up to now, municipal debt or guarantees have not been issued.

³⁴⁷ Regulation GRK-No. 22/2013 on Procedures for Issuance and Management of State Debts, State Guarantees and Municipal Debts.

³⁴⁸ Law on Public Debt.

³⁴⁹ Law on Public Debt, Article 30.


From 2021, the central government publicly owned enterprises (POEs) are obliged to prepare and report data on domestic and international borrowings to the Treasury³⁵⁰. The Treasury published information on this for the first time on 30 March 2021 in the quarterly report on the official website of the MoF.

Conclusion

There is a comprehensive state debt management system in place, including one single debt management entity, limited annual borrowing, an annually published debt management strategy, a comprehensive annual report, and quarterly reporting on public debt. The central government debt portfolio is relatively low risk, and total public debt stock is below 22% of GDP.

Principle 5: Transparent budget reporting and scrutiny are ensured.

Overall, the value for the indicator 'Transparency and comprehensiveness of budget reporting and scrutiny' is 4. This value has increased from 3 in 2017 as there has been an improvement in the quality of the annual financial reporting of the Government.

Indicator 6.5.1 - Transparency and comprehensiveness of budget reporting and scrutiny						
This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Comprehensiveness of published information						
1. Quality of in year reports of government revenue, expenditure and borrowing					7/7	+1
2. Quality of the annual financial report of the government					5/7	+3
3. Quality of annual reports of state owned enterprises, extra budgetary funds and local government					3/5	-1
4. Clarity of national accounting standards and consistency with international standards					3/4	=
5. Existence of reporting on fiscal risks identified in the budget					0/1	=
Scrutiny and oversight using published information						
6. Quality of the annual financial reporting on the use of public finances					3/3	+2
7. Timeliness of submission of the SAI report to parliament					1/2	=
8. Timeliness of parliamentary discussion on the report of the SAI					3/3	=
Total					25/32	+5

The Government publishes monthly reports of government revenue, expenditure and borrowing on the MoF website. The reports are at an aggregate level, do not provide details of individual BOs and are not compiled from standard format reports completed by each BO. The Treasury's quarterly reports are prepared on the basis of standard format reports submitted by BOs. They include explanations of the variations from the original expenditure and revenue profiles published at the start of the year, future

³⁵⁰ Government Decision No. 08/68 2021.

spending commitments, local government financial data, capital spending and the stock of arrears (commitments). The quarterly reports are published before the end of the following quarter.

The six-month financial report³⁵¹ contains a summary of the main trends of budget revenues and expenditures during the first six-months of the year. The report contains analyses for the relevant period, and it includes the presentation of revenues by collecting institutions at the central and local level, details on revenues sources, as well as comparisons with the previous periods and budget projections.

The Annual Financial Statement (AFS)³⁵² on the execution of the budget is published before the end of the following March. The information contained in the AFS is comprehensive, containing information on total revenue, expenditure and borrowing for central government and each BO. The AFS also explains variations from the original budget, and contains an analysis of state assets and liabilities, including state guarantees and other contingent liabilities. The AFS for 2020 mirrors the presentation format of the Budget Law 2020. However, it does not contain non-financial performance information, compare performance targets with results or explain variations for capital investment projects.

The Law on POEs³⁵³ stipulates that POEs must submit their annual report to the Ministry of Economy within 75 days of the year end, but we found that only some POEs' reports are available on the Ministry of Economy's website. A consolidated report on the financial performance of the state-owned enterprise sector is not prepared.

Local governments are required to publish AFSs within 30 days of the year end and the audited AFS within nine months of the year end. The NAO submits final audit reports to each audited institution and its municipal assembly no later than 90 days after the submission of the institution's final annual financial statements and the audit reports are available on the NAO website.

The financial statements³⁵⁴ are prepared in accordance with the LPFMA, adopting the cash-based International Accounting Standards for the Public Sector for financial reporting, which does not enable the provision of ESA2010-compliant data. There is no monitoring or reporting on fiscal risks identified in the budget.

Following publication of the AFS by the end of March, it is tabled for discussion by the Assembly. The AFS is not yet accompanied by the Auditor-General's report. This report is published by the end of August. The Annual Audit Report on the 2019 AFS was published in August 2020 with an unqualified opinion. The Auditor-General (AG) presented the 2019 Annual Audit Report to the plenary session of the Assembly on 2 November 2020, and in its session on 27 November 2020 the Assembly approved the recommendations of the Committee for Oversight of the Public Finances regarding the 2019 Annual Audit Report.

Conclusion

The main conditions for budget transparency are in place, with frequent and comprehensive in-year reporting and timely publication of annual financial statements for central and local government. The AG's opinion on the AFS 2019 was unqualified, but the AFS is submitted to the Assembly before the AG's opinion is issued. The financial statements/reports do not explain variations for capital investment projects and do not contain non-financial performance information. Monitoring and reporting on fiscal risks and transparent reporting on the financial performance of POEs are not in place.

³⁵¹ Financial Report on the Budget for the period 1 January to 30 June 2020, published 30 July 2020.

³⁵² Annual Financial Report for the year ended 31 December 2020.

³⁵³ Law No. 03/L-087 on Publicly Owned Enterprises.

³⁵⁴ MoF Regulation No.01/2017 on the Annual Financial Statements of Budget Organisations, Article 8.1.

Internal control and audit

Principle 6: The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.

Overall, the value for the indicator 'Adequacy of the operational framework for internal control' is 4, the same as in 2017. There has been no major change, but the Government does now issue a decision annually on actions to improve internal control implementation.

Indicator 6.6.1 - Adequacy of the operational framework for internal control						
This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms.						
A separate indicator measures the implementation of the operational framework for internal control.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Existence of policy for the development of internal control					4/6*	=
2. Completeness of the regulatory framework for internal control					4/5	-1
3. Comprehensiveness and regularity of the annual review and reporting on internal control					5/5	+2
Total					13/16	+1

Notes: *Data not available or provided. SIGMA has revised the 2019 Methodological Framework and removed the sub-indicator on alignment between national budget management and control systems and those for EU-funded programmes. The total number of points therefore changed from 20 to 16.

The requirements for internal financial control³⁵⁵ apply to all public sector entities in Kosovo managing public assets and/or using public funds. This includes central government entities, local government entities and special funds, POEs, public financial institutions and other not-for-profit organisations which are owned, controlled or funded by the state or given state guarantees, and other organisations spending public funds based on international agreements or state guarantees. The CHU is responsible for monitoring and evaluating the financial management and control (FMC) systems for the purpose of gathering information to improve the legal framework and methodology. However, the CHU has not analysed the coherence of PIFC legislation with other horizontal legislation.

Under the Law on Public Internal Financial Control (the PIFC Law)³⁵⁶, the Minister of Finance is the responsible authority for the approval of regulations and manuals for the functioning of the FMC systems. Formal guidelines and regulations³⁵⁷ have been issued by the CHU for all public sector organisations implementing internal control.

Formally adopted plans exist to develop internal control. The policy for the development of internal control is part of the PFM Reform Strategy 2016-2020. The PFM Reform Strategy for 2021-2025 is under development. The Strategic Plan of the CHU sets out the priorities for the period 2020-2022. The Annual

³⁵⁵ Law No. 06/L-021 on Public Internal Financial Control, Article 2.

³⁵⁶ Public Internal Financial Control Law, Article 28.2.

³⁵⁷ MoF Regulation No. 01/2019 on Financial Management and Control; MoF Administrative Instruction No. 01/2019 on Establishment and Functioning of Audit Committee at Public Sector Entity; the MoF Procedures Manual for Public Expenditure Management, September 2017.

Plan for the CHU for 2020, approved by the Minister of Finance, sets out its FMC objectives including the development and advancement of PIFC strategic development documents and the regulatory framework, increasing managerial accountability, improving the quality of internal control, professional development and training, and strengthening monitoring by the CHU.

The CHU Annual Report contains information on the activities performed in the field of PIFC and provides findings, conclusions and recommendations for further improvements, but it does not provide a comparison of the planned activities against those implemented during the year. The 2019 CHU Annual Report³⁵⁸ was published in July 2020. The 2020 report has not been published yet. The Government decision³⁵⁹ approving the 2019 CHU Annual Report requires specific actions to improve internal control implementation.

In 2019 a self-assessment questionnaire was distributed by the CHU to 104 entities at central and local levels, who are required to implement internal control, to report on progress and actions taken. 101 institutions (97%) completed the questionnaire including all 53 central government institutions (ministries and agencies).

Conclusion


There is a comprehensive operational framework for internal control applicable to all general government organisations, including adopted plans, annual review and reporting. The CHU reported comprehensively on internal control implementation and the Government decision approving the CHU Annual Report addresses measures for further improvement of the functioning of the internal control system.

³⁵⁸ Annual Report on the functioning of Public Internal Financial Control System in Public Sector Entities for 2019, June 2020.

³⁵⁹ Government Decision No.07/2, 9 July 2020.

Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

Overall, the value for the indicator 'Functioning of internal control' is 1. The value has decreased from 2 in 2017. This decrease reflects a downturn in the effectiveness of basic accountability mechanisms for central government bodies and risk management practices.

Indicator 6.7.1 - Functioning of internal control		
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.		
Overall 2021 indicator value  since 2017	0	1
	2	3
	4	5
	Points 2021	Change from 2017
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies	1/3	=
2. Alignment between management and budget structures (%)	1/3	=
3. Credibility of controls for avoiding commitments above the expenditure ceilings	0/2	=
4. Availability of reporting of total cost and physical progress of major investment projects	2/2	=
5. Effectiveness of basic managerial accountability mechanisms for central government bodies	0/4	-2
6. Delegation of decision-making authority within ministries	3/4	+3
7. Regularity and completeness of risk management practices	0/3	-3
8. Existence of reporting on irregularities	0/2	=
Total	7/23	-2

As at 31 March 2021, there were 49 first-level BOs. This includes 14 ministries, 8 constitutional bodies and 4 independent agencies established by Law³⁶⁰. The remaining 23 first-level budget organisations are neither ministries nor constitutional bodies.

The annual Budget Law is structured in such a way that each budget programme refers to a specific BO. SIGMA reviewed the alignment between management and budget structures for 14 ministries and there was only clear alignment for 7 (50%).

The Annual Financial Statement³⁶¹ on the execution of the Budget contains information on the Government's total outstanding payments at the end of 2020, which were 4.45% of total expenditures. The legislation³⁶² sets requirements for the accounting of liabilities, as well as requirements to pay invoices within 30 days. At the same time, there is a relatively large proportion of unpaid bills. The main reason for this is the non-fulfilment of the planned revenues in the budget, resulting in invoices received not being paid toward the year end. Therefore, to ensure compliance with the deficit level set in the budget, the level of outstanding commitments is increased.

Budget institutions submit quarterly information on the financial and physical progress of capital projects over EUR 1 million through the Public Investment Planning System. The MoF Budget Department monitors the total cost and physical progress of these investment projects. The MoF quarterly financial

³⁶⁰ Constitution, Article 142.

³⁶¹ Annual Financial Report for the year ended 31 December 2020.

³⁶² Law on Public Financial Management and Accountability, Article 39.

reports on the execution of the state budget contain information on the implementation of each investment project approved by the annual Budget Law.

The relationship between parent ministries and their subordinate bodies is important, as ministries will set overall policies, some of which will be delivered by the subordinate bodies. However, the ministry, and the minister specifically, will retain overall responsibility, so arrangements need to be in place to ensure accountability. The relationship between a sample of ministries and their subordinate bodies was assessed against criteria covering three areas: the inclusion of agreed objectives and measurable targets in the annual plan of the subordinated body; monitoring of progress towards objectives; and the inclusion of outcomes against targets in the subordinated body annual report with feedback from the ministry. The sample institutions did not meet these managerial accountability criteria. The annual plans of the subordinated bodies did not contain specific objectives and measurable targets approved by the ministry, progress towards objectives was not monitored and the annual reports did not contain information on the level of outcomes against the predefined objectives and targets.

The head of a public sector entity can delegate aspects of his responsibilities and authorities for decision making, management, budget spending, reporting and monitoring to subordinated staff. SIGMA assessed the delegation of decision-making authority by examining the level of delegation in a sample of five institutions. The assessment was against seven criteria covering the extent to which authority to approve administrative procedures was in practice delegated below the level of minister or secretary-general. SIGMA found that all five samples examined had reasonable levels of delegation established, except in the area of recruitment decisions and employment contracts of senior advisers and similar positions.

With respect to risk management, SIGMA examined the completeness of risk management arrangements in a sample of five BO, including whether an annual risk assessment was conducted against the institution's objectives, risk mitigation measures were in place and responsible persons were identified. Only three of the five institutions had appropriately developed risk management arrangements in place.

There are no procedures established for reporting on irregularities and suspected fraud and no cases of reported irregularities were identified in the five sample institutions examined.

Conclusion

Implementation of the rules and procedures for internal control in budget organisations lags behind the development of the regulatory framework. There is a reasonable level of delegation of decision-making authority within ministries. However, risk management and reporting on irregularities need further development and basic accountability mechanisms between ministries and subordinated bodies, such as setting objectives and reporting on performance, are not operating effectively. The public expenditure management system still does not ensure timely payment of invoices and the minimisation of payment arrears.

Principle 8: The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

Overall, the value for the indicator ‘Adequacy of the operational framework for internal audit’ is 3, the same as in 2017, although there has been an increase in the organisational capacity for internal audit (IA).

Indicator 6.8.1 - Adequacy of the operational framework for internal audit						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.						
A separate indicator measures the implementation of the framework and the results achieved.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
1. Adequacy of the regulatory framework for internal audit				5/5	=	
2. Organisational capacity for internal audit				4/5	+3	
3. Co-ordination, development and guidance of the internal audit system				2/5*	=	
4. Existence of a system for quality assurance for internal audit				1/3	-1	
Total				12/18	+2	

Note: *Data not available or provided.

The PIFC Law and related regulations specify the operational arrangements for IA, including minimum organisational requirements and size of units, based on the size of the annual budget of the institution and number of full-time staff³⁶³. IA units are established in all public sector entities managing public assets and/or using public funds³⁶⁴ in accordance with the criteria adopted by the Government³⁶⁵. There are 51 central government organisations, and IA units are established in all of them. For 18 institutions, the IA function is provided by the MoF IA department. 74.5% of the IA units are staffed according to legal requirements and have at least two auditors, but there are still a number of single-person audit units (five units with only one auditor position, and another eight units with only one auditor actually in post), which as a result cannot comply fully with the requirements of the International Professional Practice Framework for Internal Auditing (IPPF)³⁶⁶.

There is comprehensive set of regulations establishing the independence of internal auditors, the reporting arrangements, the IA standards and manuals, the code of ethics and certification requirements³⁶⁷. The IA units exercise their functions independently and report directly to the head of the relevant public sector entity, with the arrangements established in audit charters. Internal auditors are required to hold an IA certification issued by the MoF or a certification for public sector internal auditors from another international

³⁶³ Regulation No. 01/2019 on the Establishment and Implementation of Internal Audit Function at Public Sector Entities. Public Sector Entity with budget over EUR 7 million should have at least three internal auditors; Public Sector Entity with budget of between EUR 3 million and EUR 7 million should have at least two internal auditors; Public Sector Entity which has a budget less than EUR 3 million, should exercise internal audit function through other manners pursuant to paragraph 1.2; 1.3 and 1.4 Article 4 of this Regulation (Article 5).

³⁶⁴ Public Internal Financial Control Law Articles 2 and 19.

³⁶⁵ Public Internal Financial Control Law, Article 19.

³⁶⁶ IPPF developed by the Institute of Internal Auditors and updated in 2017.

³⁶⁷ MoF Administrative Instruction No.05/2012/MF – includes the procedure for the issuing of professional licences for internal auditors in the public sector.

or local relevant institution that is in compliance with criteria issued by the MoF. In 2020, there were 88 internal auditors in post, all of which held the required certificate for internal auditing.

The IA Manual issued by the CHU on 20 February 2020 is a comprehensive document that complies with the IPPF and covers the overall management of internal audits and details the activities of the audit team as it proceeds through an individual audit. The CHU publishes the Standards for the Conduct of Internal Audits and the Code of Ethics on its website.

There is an up-to-date and formally approved plan for the development of IA. The Strategic Plan of the CHU sets out the priorities for the period 2020-2022. The annual plan is part of the strategic plan, and the main objectives for 2020 included improving the quality of IA and increasing the professional development of human resources.

The CHU's 2019 Annual Report³⁶⁸ details the actual situation and the work done on IA development during 2019, but it does not include information on the level of implementation of the planned IA activities. Due to the lack of information in the annual report on the planned and actual implementation, it is impossible to assess the implementation of the plan.

There is a programme for certification of internal auditors, but there is no continuous professional development programme in place. The programme for training and certification of public sector auditors certified 32 candidates in 2019.

The CHU does not organise meetings of the heads of IA units. There is no central programme or procedure for carrying out external quality assessments of IA work, and no external reviews have been conducted. However, in 2020 the CHU conducted ten monitoring sessions to assess and ensure that IA in the public sector entities operated in accordance with the IA regulations. During 2020, in co-operation with the US Agency for International Development (USAID), a draft guide for quality assessment and quality assurance was prepared but has not yet been implemented.


Conclusion

There is a solid regulatory framework in place for IA, which applies to all general government institutions and there has been progress in its application. IA units are established in all organisations required to do so, although not all are staffed in line with the legal requirements, and there are a number of single-person units. The CHU monitors and reports annually on the progress in developing the quality of IA. However, quality assurance procedures are still developing and there is no continuous professional development programme in place.

³⁶⁸ Annual Report on the Functioning of the Public Internal Financial Control System in Public Sector Entities 2019.

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

Overall, the value for the indicator ‘Functioning of internal audit’ is 4. This is an increase from 3 in 2017 reflecting an improvement in the quality of audit reports and planning of IA in institutions.

Indicator 6.9.1 - Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Strength of planning of internal audit in budget organisations					6/7	+1
2. Quality of audit reports					5/6	+2
3. Follow-up and implementation of audit recommendations (%)					2/3	=
Total					13/16	+3

The CHU’s 2019 Annual Report on PIFC indicates that 95% of organisations with an IA function prepared IA strategic and annual plans. This level of compliance was confirmed by our analysis of a sample of five IA units. SIGMA’s review of the plans of the sample IA units confirmed that the annual plans are based on their strategic plans. They also meet the requirements of the IA Manual developed by the CHU, which include being approved by the head of the relevant institution, being based on a risk assessment and covering all parts of the institution. Four of the sample IA units have developed risk registers. The annual audit plans examined all included compliance and system-based audits but did not include performance audits.

Although the quality of IA reports varies, they all follow a logical structure and the reports reviewed from the sample IA units all included the audit objectives and scope, provided recommendations clearly linked to the supporting evidence and addressed systematic weaknesses in internal control systems. However, they did not address weaknesses in achieving value for money.

The CHU 2019 Annual Report³⁶⁹ includes information on the implementation of audit recommendations during 2019. 302 internal audits were carried out in central government institutions and 1292 recommendations were made to improve the internal control system. Of these, 658 (51%) were implemented by the management, 462 (36%) were in the process of being implemented and 172 (13%) of the recommendations were not implemented. The total number of recommendations made by central government IA units in 2018 was 1401, and the CHU 2019 Annual Report indicates that all were followed up.

Conclusion

Almost all IA units have strategic plans approved, with IA work carried out following annual IA plans. Individual audit reports generally meet the guidelines laid down, but the focus is primarily on compliance with existing rules and procedures and not on addressing weaknesses in achieving value for money. There is limited progress in implementing IA recommendations within one year.

³⁶⁹ Annual Report on the Functioning of the Public Internal Financial Control System in Public Sector Entities.

Public procurement

Principle 10: Public procurement regulations (including public private partnerships and concessions) are aligned with the European Union *acquis*, include additional areas not covered by the *acquis*, are harmonised with corresponding regulations in other fields, and are duly enforced.

Overall, the value for the indicator ‘Quality of legislative framework for public procurement and PPPs/concessions’ is 3. There has been no progress since 2017, when the total value was also 3, as the legal framework has not been amended in order to harmonise it with the 2014 EU Directives³⁷⁰.

Indicator 6.10.1 - Quality of legislative framework for public procurement and PPPs/concessions						
This indicator measures the quality of the legislative framework for public procurement and public private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of small and medium-sized enterprises (SMEs) in public procurement are assessed, as well as whether practical measures are taken to allow proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
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				2/6	=	
3. Public procurement procedures				1/4	=	
4. Publication and transparency				4/5	+1	
5. Choice of participants and award of contracts				1/5	-1	
6. Availability of procedural options				3/4	+1	
Public procurement procedures below EU thresholds						
7. Advertising of public procurement procedures				3/3	=	
8. Contract award procedures				5/7	-2	
Opportunities for participation of SMEs in public procurement						
9. Opportunities for participation of SMEs in public procurement				3/5	+1	
Availability of measures for the practical application of the legislative framework						
10. Availability of measures for the practical application of the legislative framework				4/5	-1	
Quality of legislation concerning PPPs/concessions						

³⁷⁰ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement and repealing Directive 2004/18/EC; Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on Procurement by Entities in the Water, Energy, Transport and Postal Services and repealing Directive 2004/17/EC; Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the Co-ordination of Procedures for the Award of Certain Works Contracts, Supply Contracts and Service Contracts by Contracting Authorities or Entities in the Fields of Defence and Security, and amending Directives 2004/17/EC and 2004/18/EC; Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the Award of Concession Contracts; Directive 89/665/EEC on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Review Procedures to the Award of Public Supply and Public Works Contracts [1989] OJ L395/33, as amended and Directive 92/13 on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Community Rules on the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Telecommunications Sectors [1992] OJ L76/7, as amended.

11. Coverage of legislation on PPPs/concessions	2/2	=
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions	3/8	-1
Total	33/60	-2

The PPL covers both classical and utilities sectors and regulates the award of contracts both above and below the EU thresholds. It regulates the procurement process from the early stages of planning to the contract management stage. Secondary legislation³⁷¹ is in place and updated in order to reflect new developments on e-procurement.

In general, the regulatory framework reflects the fundamental EU Treaty principles of transparency, equal treatment, and non-discrimination. However – as a notable exception – the last amendments to the PPL³⁷² introduced 15% domestic preferential treatment until 31 December 2021, which drastically affected the above-mentioned principles and was not in line with the commitments in the SAA³⁷³.

The current PPL implements only some of the new concepts of the 2014 EU Directives, such as a turnover cap, provisions on incomplete or erroneous information or documentation submitted by economic operators and contract performance conditions. A number of important provisions have not been introduced or are not in line with the 2014 EU Directives. There are no specific provisions on preliminary market consultations and prior involvement of candidates or bidders, innovation partnerships and competitive dialogue procedures, justification where the contract has not been subdivided into lots, the European Single Procurement Document, social and other specific services, modification of contracts during their term etc. The concept of most economically advantageous tender has not been implemented as is provided in the 2014 EU Directives. Mixed contracts are defined, but not all relevant provisions of the EU *acquis* have been transposed. The PPL contains few exclusions that exceed what the Directives allow, such as procurement aimed at representation in the form of offering food and beverages³⁷⁴.

Contracting authorities may use the open or restricted procedure as the main procurement procedure, but rules for the shortlisting of candidates under the restricted procedure do not fully comply with the 2014 EU Directives. The financial thresholds for application of the PPL are relatively low (EUR 1 000)³⁷⁵. For lower-value contracts, the PPL provides that they are governed by specific rules established by the PPRC³⁷⁶.

The use of the competitive negotiated procedure depends on certain conditions, which are not explicitly established. The PPL contains strict rules for applying the negotiated procedure without prior publication of a contract notice.

The EU Utilities Directive is not transposed in the PPL, but the Law contains the basic procurement concepts for contracting entities, such as relevant sectors/activities, procurement procedures, rules on drafting technical specifications and the option of using a qualification system.

³⁷¹ <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=233>.

³⁷² Article 13 of Law No. 07/L -016 on Economic Recovery – COVID-19, adopted December 2020.

³⁷³ Up until 1 April 2021, the SAA provides that the domestic preference shall not exceed 5% (starting with the end of the fourth year following its entry into force). The transitional period during domestic preferential treatment could be applied, as provided in Article 79 of the SAA, fully expired on 1 April 2021 (no later than the end of the fifth year following the entry into force of the SAA).

³⁷⁴ PPL, Article 3, point 6.

³⁷⁵ PPL, Article 19: Classifying a Public Contract by Estimated Value.

³⁷⁶ PPL, Article 37: Procedures for Minimal Value Contracts.

The PPL incorporates the relevant provisions of the EU challenges and remedies regimes³⁷⁷, to a large extent in line with the requirements of the *acquis* but with some discrepancies, such as those on alternative penalties or frivolous demands.

Activities on adoption of the new PPL have commenced in 2020, but the drafting process is moving slowly, and public consultations have still not been initiated³⁷⁸.

The provisions of the EU Defence and Security Directive have not been transposed. The PPL provides for exceptions related to the purchase of sensitive military equipment. However, no further provisions on how to procure these items have been provided. In 2019, the Regulation on Procurement for Security Purposes³⁷⁹ was adopted, defining only basic rules, conditions and procedures for procurement for the purpose of defence and security exempted from the PPL, but not transposing the Defence and Security Directive.

Concessions and PPPs are subject to a separate PPP Law that is in compliance with the basic standards set out in the EU Concessions Directive. The definition of 'concession' covers works and service concessions. If the PPP arrangement takes the form of a public procurement contract, the contract must be awarded according to the PPL. The PPP Law promotes the use of the procedure with prior publication of a notice as a general approach to the contract award, but it contains only general rules regarding exclusion conditions, qualification requirements and technical specifications. There is ongoing activity on the adoption of the new PPP Law³⁸⁰.

Related to the response to the COVID-19 pandemic, the Government declared a public health emergency³⁸¹ and the PPRC issued notices on options for the use of the negotiated procedures without prior publication, submission of evidence within procedures, remote communication, accelerated payments, tender securities, postponement of tendering time limits for non-emergency procurements, non-penalisation of contract performance delays and the extension of contracts' execution deadlines. As of 12 June 2020, all procurement activities have to be carried out in full compliance with the PPL. Due to aggravation of the pandemic in September 2020, the PPRC issued advice on the use of the *force majeure* provisions in case of difficulties in contract implementation. Concerns have been raised regarding the higher prices for several types of procurement items, which were paid because the negotiated procedure without the publication of a contract notice was used.

The most significant measure taken due to the COVID-19 pandemic has been the amendment to the PPL³⁸² introducing domestic preferential treatment. As this measure was adopted just at the end of 2020, there is a question of its justifiability, especially considering that it has not been implemented in practice³⁸³.

³⁷⁷ Directive 89/665/EEC on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Review Procedures to the Award of Public Supply and Public Works Contracts [1989] OJ L395/33, as amended and Directive 92/13 on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Community Rules on the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Telecommunications Sectors [1992] OJ L76/7, as amended.

³⁷⁸ August 2021.

³⁷⁹ Regulation (GRK) No. 03/2019 on Procurement for Defence and Security Purposes.

³⁸⁰ SIGMA interviews, 30 March-1 April 2021.

³⁸¹ Decision No. 01/11 on the Declaration of a Public Health Emergency of 15 March 2020.

³⁸² Article 13 of Law No. 07/L-016 on Economic Recovery – COVID-19, adopted December 2021.


³⁸³ SIGMA interviews, 30 March-1 April 2021. The PPRC and contracting authorities stated that preferential treatment has not been applied in procurement procedures, as there are no mechanisms for the identification of domestic elements within tenders.

Conclusion

The legal framework includes some provisions of the 2014 EU Directives on public procurement, but a number of instruments and tools are lacking. Due to COVID-19, temporary domestic preferential treatment has been introduced, contrary to the principle of equal treatment. There is a general legal framework on defence procurement, but not in line with the relevant Directive on defence procurement. The legal framework on PPPs and concessions needs modernisation and alignment with the 2014 EU Directives.

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

Overall, the value for the indicator 'Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently' is 4. There has been a positive trend since 2017, when the total value was 3. The positive trend is mainly due to better accessibility and monitoring of procurement data. However, there are some negative developments as regards the implementation of the strategy.

Indicator 6.11.1 - Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently						
This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies is open and transparent.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
					Points 2021	Change from 2017
Quality of the policy framework for public procurement						
1. Quality of the strategy for development of public procurement and PPPs/concessions					3/5	=
2. Quality of the operational action plan					0/5	-4
3. Implementation of the strategy and the action plan (%)					0/5*	=
4. Monitoring of strategy implementation					0/5	=
Capability of central procurement institutions and their performance						
5. Adequacy of the legal framework to ensure capable institutions					10/10	=
6. Clarity in definition and distribution of central procurement functions in the legislation					10/10	+2
7. Performance of the institutions involved, their capacity and resources					14/20	+2
Comprehensiveness and efficiency of systems for monitoring and reporting on public procurement						
8. Presence and quality of monitoring and data collection					10/10	+4
9. Accessibility of public procurement data					10/10	+2
Total					57/80	+6

Note: *Data not available or provided.

The current National Public Procurement Strategy 2017-2021 serves as a coherent strategic framework for the development of the public procurement system, but it does not cover PPPs/concessions, nor other important aspects, such as green procurement, social procurement or innovations.

Although the Strategy states that the Action Plan should be reviewed and updated every two years, no updated actions have been adopted since the expiration of the Plan for 2017-2019. Therefore, in the last two years, there has been no relevant action plan in place. In addition, there are no available online reports

on the implementation of the Strategy or the Plan for 2017-2019³⁸⁴, highlighting significant weaknesses regarding the quality and monitoring of the implementation of the strategic framework³⁸⁵.

The PPRC is the central public procurement body, led by a board composed of three members, all of them proposed by the Government and appointed by the Assembly. Drafting of primary legislation is carried out by the MoF in co-operation with the PPRC; the PPRC drafts and issues secondary decrees. Other PPRC competences are provided in the PPL³⁸⁶ and include monitoring procurement and preparing and disseminating procurement manuals, guidelines and standard documents; issuing opinions and providing support and advice to procurement actors; raising awareness of public procurement regulations; and maintaining the e-procurement platform *E-Prokurimi*. The PPRC also develops training modules and curriculums for procurement qualifications and arranges training in co-operation with the Kosovo Institute for Public Administration (KIPA). The monitoring function is performed through planned monitoring, case-by-case (ad-hoc) monitoring of procurement, and monitoring of notices. Listed functions are divided between four departments (for rules, monitoring, training and information technology (IT)).

For collection and dissemination of data and for reporting, the PPRC uses the e-procurement platform (the upgraded version being in use since 2019). Additional modules on contract management and performance evaluation were introduced in January 2021.

The PPRC's website is well structured and provides a wide range of useful information, such as legal acts, manuals, training materials and standard procurement and contract documents, which can be downloaded. However, there is a lack of guidelines providing examples of best practice on specific topics, such as award criteria or technical specifications³⁸⁷.

Annual reports are published on the PPRC website, while the e-procurement platform's search options enable analysis of data by various criteria and the exporting of results. The platform ensures easy and free public access to all public procurement data, including free third-party reuse of data. Feedback from stakeholders (including non-governmental organisations (NGOs)) on the accessibility of information on the platform is positive³⁸⁸.

Centralised procurement procedures are carried out by the CPA, established under the MoF.

The PRB, an independent state-financed public authority, is the competent entity to resolve appeals concerning public procurement procedures prescribed by the PPL³⁸⁹ and the PPP Law³⁹⁰.

The area of concessions and PPPs is included under the competences of both the PPP Committee and the Central Department for Public Private Partnership³⁹¹ within the MoF. Basic guidelines are available on

³⁸⁴ During a SIGMA interview held on 30 March 2021, the PPRC stated that some reports were prepared and submitted to the Government, but no further information was provided to SIGMA.

³⁸⁵ There is no detailed information on activities for the preparation of the new strategic framework for the period after 2021. During a SIGMA interview held on 30 March 2021, the PPRC stated that the follow-up strategy will be part of the comprehensive PFM strategy that is under development within the technical assistance project.

³⁸⁶ PPL, Title IV.

³⁸⁷ SIGMA interviews, 30 March-1 April 2021.

³⁸⁸ *Idem*.

³⁸⁹ PPL, Article 98.

³⁹⁰ PPP Law, Article 46 defines that if a person who participates in contract award procedures set forth in the PPP Law considers that they have been aggrieved by a decision taken by or an omission of a Public Authority in violation of the provisions of Part IV, Title II, of the PPP Law, such person may submit a complaint to the PRB in accordance with the PPL. The PRB shall review and decide on such a complaint in accordance with the PPL.

³⁹¹ PPP Law, Articles 16, 17 and 18 and Regulation (GRK) No. 17/2017 on Internal Organisation and Systematisation of jobs in the Ministry of Finance.

the national PPP website³⁹², but their extent and quality do not reflect the importance and complexities of PPP arrangements. In practice, PPPs and concessions are very rare.

Related to administrative capacities, the PPRC's Monitoring Department requires strengthening, while the number of staff at the CPA should be increased to correlate better with the increased volume of centralised procurements³⁹³.

The most problematic situation was identified in relation to the PRB. The PPL provides that the PRB board should consist of five members, but in the period July 2017-March 2021 the PRB was working with only three board members³⁹⁴. In addition, the mandate of the PRB board members expired at the end of March 2021, with no legal possibility for continuation of the PRB's activity until the appointment of new board members. The result of this situation is that the remedy system has not been operational for a significant period³⁹⁵, while economic operators have had no clear options as to where to submit appeals in the case of alleged infringements of the procurement rules.

Conclusion

The institutional set-up for developing and implementing public procurement policy is in place, and the competences of the institutions involved are clearly allocated. The strategic framework does not cover PPPs and concessions, and there are no updated action plans or reports on the Strategy's implementation. The PPRC's capacity for monitoring requires strengthening, and the CPA's capacity should be increased in line with the increase in procurement activities. Lengthy periods of non-appointment of some PRB board members has hampered the effectiveness of the review procedures.

³⁹² <http://www.pppkosova.org>

³⁹³ SIGMA interviews, 30 March-1 April 2021.

³⁹⁴ Two members were suspended due to their indictment in a corruption case.

³⁹⁵ The situation was unchanged in August 2021; the PRB board members have not yet been appointed.

Principle 12: The remedies system is aligned with the European Union acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

Overall, the value for the indicator 'Independence, timeliness and competence of the complaints handling system' is 4. In 2017, the value was also 4. The steady value of the indicator reflects the fact that there were no amendments to the legal framework. In practice, there have been both positive and negative developments.

Indicator 6.12.1 - Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with EU Directives. Then, the strength of the institutional set-up for handling complaints is analysed. Next, the actual performance of the review system is measured. Finally, the performance of the remedies system for PPPs/concessions is evaluated.						
Overall 2021 indicator value	0	1	2	3	4	5
				Points 2021	Change from 2017	
Legislative mechanisms for handling complaints in compliance with EU Directives						
1. Right to challenge public procurement decisions				5/5	=	
2. Time limit for challenging decisions taken by contracting authorities/entities				2/2	=	
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties				2/3	=	
4. Mechanisms to ensure implementation of the review body's resolutions				2/2	+2	
5. Right to challenge decisions of the review body				3/3	=	
Institutional set-up for handling complaints						
6. Legal provisions ensure the independence of the review body and its members				6/7	=	
7. Adequacy of the organisational set-up and procedures of the review body				2/4	=	
8. Public availability and timeliness of data on the review system				3/4	=	
Performance of the review system						
9. Fairness of fee rates for initiating review procedures				1/3	=	
10. Actual processing time of complaints				0/3*	-2	
11. Complaint submission in practice				4/4	+1	
12. Quality of decision making by the review body				4/4	+1	
13. Cases changed or returned after verification by the court (%)				1/2	+1	
Performance of the remedies system in PPPs/concessions						
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures				5/5	=	
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members				5/5	=	
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions				2/5	+1	
Total				47/61	+4	

Note: *Data not available or provided. The point allocation in 2017 for sub-indicator 9 was revised retrospectively from 1.5 to 1 due to an error related to manual data entry.

The PPL provisions³⁹⁶ on the scope of the review and remedies system, the time limits for challenging decisions³⁹⁷, the effects of filing a complaint and the mechanism for ensuring the effectiveness of contracts are to a large extent consistent with the *acquis*. The approach to alternative penalties³⁹⁸, however, is not fully in line with the *acquis*. According to the PPL, alternative penalties may take the form of compensation for damages, but compensation for damages does not constitute an alternative penalty according to the relevant provisions of the Remedies Directive. The PRB's authority to impose a fine of EUR 5 000 if the complaint is deemed frivolous³⁹⁹ may be considered a limitation on the complainant's access to justice. However, the PRB does not use this option in practice⁴⁰⁰.

The PRB is the first-instance review body for appeals concerning public procurement procedures prescribed by the PPL⁴⁰¹ and the PPP Law⁴⁰². The PRB consists of five board members, including the one serving as Chairperson. All members are appointed for a term of five years, without the possibility of reappointment. The number of board support staff is 23. The Assembly appoints the members of the board based on the recommendations of an independent selection body composed of three judges appointed by the Judicial Council.

Members of the board can be removed from office only if they are found guilty of a criminal offence through a final court judgement or if they have acted contrary to the professional ethics associated with their duties.

The latter provision led to a situation where the composition of the PRB was incomplete for the period July 2017-March 2021, only three members of the board being active during that time⁴⁰³. The PPL does not contain provisions to ensure coverage of the staffing deficit during suspension of PRB board members.

Moreover, there are no specific provisions on how to cover the transitional period between the expiration of current mandates and the appointment of new PRB board members.

Appeals can be lodged through an e-Appeals module on the e-procurement platform. A by-law on rules for filing complaints, adopted in 2016⁴⁰⁴, needs to be updated in order to clearly reflect the upgrading of electronic submission of appeals through the e-procurement platform.

³⁹⁶ PPL, Title IX: Procurement Review Procedures.

³⁹⁷ PPL, Article 108. The time limit for seeking the preliminary review before contracting authorities is only five days (either before the bid submission deadline or from the issuance of the decision of the contracting authority). Such a deadline, though not directly incompatible with the Remedies Directives (which refer to a review before a review body), may be too short in practice.

³⁹⁸ There is reference to alternative penalties, as Article 133(4) of the PPL stipulates that where the PRB or a court decides not to declare a contract as ineffective, even though there are grounds for doing so, it shall consider whether it can impose alternative penalties in the form of fines on the contracting authority, as mentioned in Article 132 of the PPL. The award of damages shall not constitute an appropriate alternative penalty. Nevertheless, Article 132 does not contain any reference to fines (only on damages), therefore it cannot be assessed that mechanisms for the imposition of alternative penalties are transposed into national legislation.

³⁹⁹ PPL, Article 118(4).

⁴⁰⁰ SIGMA interviews, 30 March-1 April 2021.

⁴⁰¹ PPL, Article 98.

⁴⁰² PPP Law, Article 46 defines that if a person who participates in the contract award procedures set forth in the PPP Law considers that it is aggrieved by a decision taken by or an omission of a public authority in violation of the provisions of Part IV, Title II, of the PPP Law, such person may submit a complaint to the PRB in accordance with the PPL. The PRB shall review and decide on such a complaint in accordance with the PPL.

⁴⁰³ OECD (2017), *Monitoring Report: Kosovo*, OECD, Paris, p. 151, <http://sigmaweb.org/publications/Monitoring-Report-2017-Kosovo.pdf>.

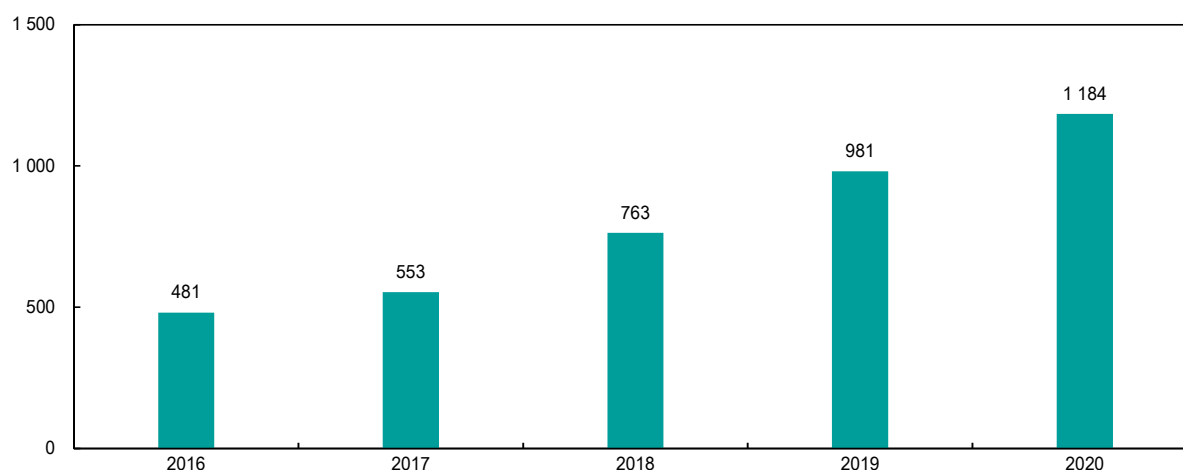
⁴⁰⁴ F03: Rules for Filing a Request for Review within the Contracting Authorities, Filing Complaints within the PRB and the Value of the Complaint Fee, <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=233>.

The decisions of the PRB are published promptly on the PRB website and available through the e-appeals module of the e-procurement platform. The PRB website's search engine offers a selection of search criteria, but it lacks a free search option. Also, the search form does not enable decisions to be selected in a user-friendly way based on the issue date, and there is no list of decisions in order of publication. A significant shortcoming is that the search options only cover cases from 2019 (earlier cases needing to be reached or requested through the archive), so user-friendly access to the full PRB practice relevant to the PPL in force is not enabled.

The PRB publish regular annual reports, but they do not provide certain key information. No data is presented on the actual processing time of complaints (average or median)⁴⁰⁵, so the efficiency of the review process cannot be assessed. Basic manual analysis of information on appeals on the website indicates that actual processing times are much longer than that prescribed⁴⁰⁶. There are serious concerns on the length of procedures, particularly in the context of the current delays to the appointment of new PRB board members, and the number of appeals shows a constant positive trend in the last years.

There is steady growth in the number of appeals reviewed by the PRB, with 1 184 appeals in 2020.

Figure 3. Number of appeals reviewed by the PRB



Source: State Review Body Annual Reports 2016-2020.

Conclusion


The regulatory framework for review is in place, to a large extent in line with the requirements of the *acquis*. There has been a significant shortcoming related to the institutional set-up of the review body due to lengthy periods of non-appointment of any PRB board members. Appeals are lodged through the e-procurement platform. The decisions of the review body are based on the applicable legislation and include the rationale, but there is no relevant information on the actual processing time for complaints.

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.

⁴⁰⁵ Data was not provided by the administration.

⁴⁰⁶ PPL, Article 117(1) prescribes a deadline of 15 days.

Overall, the value for the indicator 'Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations' is 3. There has been a positive trend since 2017, when the total value was 2, mostly due to implementation of the new e-procurement platform.

Indicator 6.13.1 - 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 2021 indicator value  since 2017	0	1	2	3	4	5
				Points 2021	Change from 2017	
Planning and preparation of the public procurement procedure						
1. Due attention is given to the planning process				0/5	-3	
2. Presence and use of cost estimation methods and budgeting				1/2	-1	
3. Perceived quality of tender documentation by contracting authorities and economic operators (%)				2/4	+1	
Competitiveness and transparency of conducted procedures						
4. Perceived fairness of procedures by businesses (%)				4/4	+1	
5. Contracts awarded by competitive procedures (%)				4/5	=	
6. Contracts awarded based on acquisition price only (%)				1/5	+1	
7. Average number of tenders submitted per competitive procedure				2/3	=	
8. Contracts awarded when one tenderer submitted a tender (%)				2/2	+2	
Use of modern procurement methods						
9. Adequacy of regulatory framework for and use of framework agreements				5/5	+3	
10. Adequacy of regulatory and institutional framework and use of centralised purchasing				5/5	+4	
11. Penetration of e procurement within the procurement system				5/5	+3	
Contract management and performance monitoring						
12. Presence of mechanisms requiring and enabling contract management				2/6	+2	
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	+3	
Risk management for preserving the integrity of the public procurement system						
15. Existence of basic integrity tools				4/4	+4	
Total				44/65	+20	

Note: The point allocation in 2017 for sub-indicator 3 was revised retrospectively from 2 to 1 due to an error related to manual data entry.

The legal framework⁴⁰⁷ stipulates that procurement forecasts shall not be published and are not publicly accessible. Also, it is established that no information on the procurement activity of the contracting authority may be published prior to publication of the standard notices. Accordingly, procurement plans are not publicly available, but one can access them after registering on the e-procurement platform.

⁴⁰⁷ Point 5.13 of the Rules and Operational Guidelines for Public Procurement.

Neither the PPL nor its by-laws encompass rules on preliminary market consultations. Legal provisions⁴⁰⁸ require that the funds must be available for the procurement in question, and contracting authorities must take into account any applicable budgetary constraints when preparing for a specific public procurement process⁴⁰⁹. In 2020, the proportion of contracting authorities/economic operators that confirmed that inputs from market consultations, cost estimates and any applicable budgetary constraints had been used when preparing tender documentation continued to be low⁴¹⁰. The 2021 Public Procurement Survey shows that, compared to 2017, there is a significant decline in the number of positive evaluations of general guidelines for the planning and preparation of public procurement and of tender documentation⁴¹¹.

National audits show that there are some systemic shortcomings in the procurement planning process⁴¹². In particular, they identified frequent use of procedures for minimum value contracts involving similar goods, pointing out an issue of systematic artificial splitting of contracts⁴¹³.

During 2020⁴¹⁴, 158 contracting authorities were registered that performed public procurement, while for 16 contracting authorities, procurement was performed through the CPA. The total value of signed contracts in 2020 was EUR 499 million, compared to a total value of EUR 781.4 million in 2019. In 2020, contracting authorities initiated 5 900 competitive procurement procedures with a value above the national thresholds, which represented 87.3% of the total value of procurement procedures.

The procedure most often used was the open procedure, covering 86.94% of the total value of the contracts⁴¹⁵.

The PPL⁴¹⁶ sets out that the award criteria can be either lowest price only or the economically most advantageous tender. However, in practice, the lowest-price criterion remains dominant; in 2020, it was used in 99.63% of contracts, by value⁴¹⁷. The most economically advantageous tender criterion is hardly ever applied, even though the PPL contains no limitations or restrictions on its use. To date, the PPRC has not strongly promoted the use of this criterion. There appear to be a number of reasons for the very limited use of criteria other than lowest price, such as a preference for sticking with well understood, routine procedures and a lack of the practical training, examples and guidance needed to increase knowledge, understanding and confidence on the part of contracting authorities to apply quality criteria⁴¹⁸.

⁴⁰⁸ PPL, Article 9(2) and point 5.14 of the Rules and Operational Guidelines for Public Procurement.

⁴⁰⁹ 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 13.1.3.

⁴¹⁰ 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 13.1.3: 59.6% of representatives of the contracting authorities take into account applicable budgetary constraints.

⁴¹¹ 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 13.1.1: 60.8% of contracting authorities positively evaluated general guidelines for planning and preparation of public procurement and for the preparation of tender documentation. In 2017 it was 88%.

⁴¹² The National Audit Office in the Annual Audit Report for 2019 noted that almost no contracting authority has fully implemented the planned procurement activities, but at the same time they entered into contracts outside the procurement plan. The identified number of contracts concluded outside the procurement plan was 735 (5.9%).

⁴¹³ The National Audit Office in the Annual Audit Report for 2019, Chapter 12: Procurement.

⁴¹⁴ Report on public procurement activities in Kosovo 2020, https://e-prokurimi.rks.gov.net/HOME/Documents/Legislation/Raportet%20Vjetore/shq/Raporti%20vjetor%202020_KRPP.pdf.

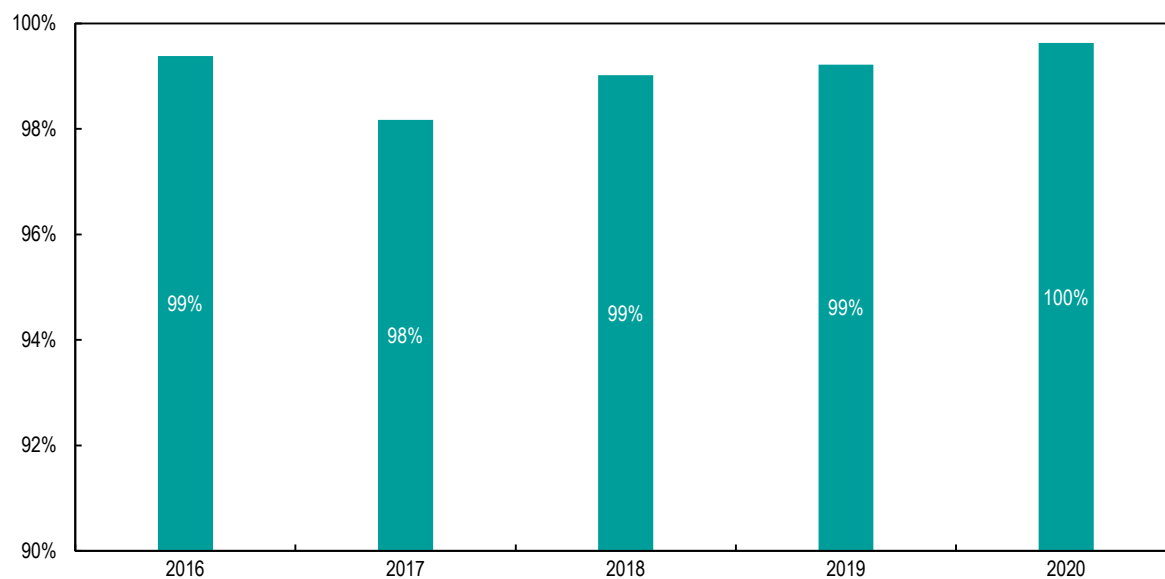
⁴¹⁵ Report on public procurement activities in Kosovo 2020, https://e-prokurimi.rks.gov.net/HOME/Documents/Legislation/Raportet%20Vjetore/shq/Raporti%20vjetor%202020_KRPP.pdf.

⁴¹⁶ PPL, Article 52(1).

⁴¹⁷ Report on public procurement activities in Kosovo 2020, https://e-prokurimi.rks.gov.net/HOME/Documents/Legislation/Raportet%20Vjetore/shq/Raporti%20vjetor%202020_KRPP.pdf.

⁴¹⁸ SIGMA interviews, 30 March-1 April 2021.

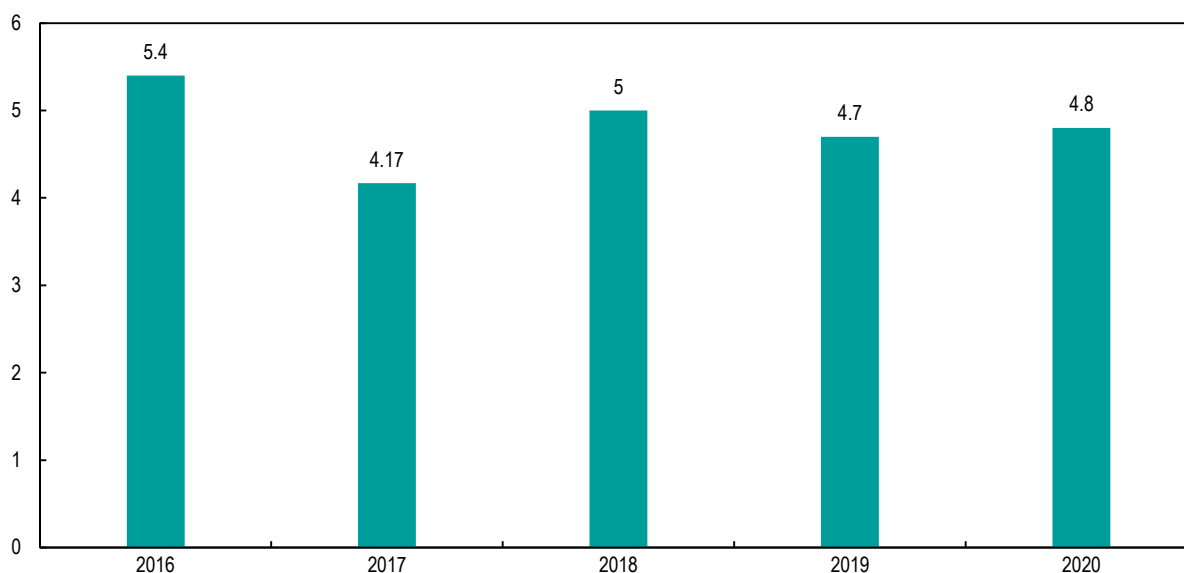
Figure 4. Percentage of awards based on lowest price



Source: Reports on public procurement activities in Kosovo for 2018, 2019 and 2020.

The average number of participants in competitive procurement procedures remains fairly high. The average number of tenders submitted per competitive procedure in 2020 was 4.8, similar to in previous years, while in 4.2% of the cases⁴¹⁹ only one tender was received.

Figure 5. Average number of tenders submitted



Source: Reports on public procurement activities in Kosovo for 2018, 2019 and 2020.

⁴¹⁹ Data provided by the national administration.

The PPL provides for the establishment and use of framework agreements⁴²⁰. In 2020, 39.2% of the total contract value was concluded under framework agreements⁴²¹, showing a significant increase compared to the previous assessment.

Centralised procurement⁴²² activity continues to be developed. The list of items covered is adopted by the Government. The function is carried out by the CPA, an agency established under the MoF, and in 2020 it awarded 7.4%⁴²³ of the total value of the contracts.

The most significant improvement has been achieved in relation to e-procurement. All procedures are published on the e-procurement platform, including tender documents that can be downloaded. The platform ensures the transparency of procurement opportunities and equal access of economic operators to public procurement. Since January 2019, bids are prepared and submitted through the platform. E-evaluation is also applied for all the procedures. Although the PPL recognises e-auctions and dynamic purchasing systems, the platform still does not support their usage.

In January 2021, new modules on contract management and performance evaluation have been introduced within the e-procurement platform. It also includes performance evaluation elements to be carried out by the contracting authorities and the economic operators. Its application should contribute to the mitigation of identified significant weaknesses related to contract management and execution, and their systematic monitoring⁴²⁴. Also, the application of previously acquired experience in contract management to future transactions is becoming more widespread among the contracting authorities⁴²⁵.

Basic integrity tools are developed and used. A training programme provided by the PPRC encompasses topics on integrity and the fight against corruption in public procurement.

Conclusion

Effective implementation of public procurement procedures remains a challenge, particularly in relation to procurement planning and cost estimation. The e-procurement platform is in place, enabling full penetration of e-procurement, including e-submission and e-evaluation. There are newly introduced tools for improving contract management and performance evaluation on the platform. Contracts are predominantly awarded based on the lowest-price criterion, not taking into consideration the quality award criteria. The number of participants in the procurement procedures remains high.

⁴²⁰ PPL, Article 38: Public Framework Contracts.

⁴²¹ SIGMA interviews

⁴²² PPL, Articles 94-97.


⁴²³ Report on public procurement activities in Kosovo 2020, https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Raportet%20Vjetore/shq/Raporti%20vjetor%202020_KRPP.pdf.

⁴²⁴ National Audit Office in the Annual Audit Report for 2019, http://www.zka-rks.org/wp-content/uploads/2020/09/RaportiVjetor_ENG_PRESS_01.pdf.

⁴²⁵ SIGMA interviews, 30 March-1 April 2021.

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

Overall, the value for the indicator ‘Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations’ is 2. The current indicator value shows a negative trend compared to the previous 2017 assessment, when it was 3. This is due to the lack of practical examples when developing implementation tools and training materials.

Indicator 6.14.1 - Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations						
This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.						
This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.						
Overall 2021 indicator value  since 2017	0	1	2	3	4	5
			Points 2021	Change from 2017		
Availability and quality of manuals, guidelines, standard tender documents and other operational tools						
1. Availability and quality of manuals and guidelines			2/5	-1		
2. Availability and quality of standard tender documents, standard forms and standard contract models			3/5	-1		
Availability and quality of training and advisory support						
3. Access to quality training for procurement staff			2/5	-3		
4. Availability of advice and support for contracting authorities and economic operators			4/5	+2		
Procurement procedures cancelled						
5. Procurement procedures cancelled (%)			1/5	=		
Total			12/25	-3		

Under the PPL, the PPRC oversees the preparation and dissemination of procurement manuals, guidelines, standard tender and contract documents, standard forms and models, for the benefit of contracting authorities and economic operators. The PPRC website provides access to text and video manuals⁴²⁶ and standard form documents⁴²⁷. The website also has a frequently asked questions (FAQs) section.

The available manuals mostly focus on specific stages of procurement procedures and the use of the e-procurement platform, and they are detailed as regards procedural elements. However, they do lack examples of best practice on specific topics, such as award criteria or technical specifications⁴²⁸. The 2021

⁴²⁶ <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=378>.

⁴²⁷ <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=233>.

⁴²⁸ SIGMA interviews, 30 March-1 April 2021.

Public Procurement Survey shows that, compared to 2017, there is a significant decline in satisfaction with the quality of guidelines and manuals⁴²⁹.

There are standard forms available on the PPRC website⁴³⁰, partly integrated within the e-procurement platform (e.g. notices). They are detailed and up to date, some of them referring to specific types of procurements (e.g. supplies, services, works), but do not contain practical examples⁴³¹. Some procedural practical examples are provided in the Rules and Operational Guidelines for Public Procurement. Based on the 2021 SIGMA Public Procurement Survey, satisfaction with standard forms has also declined compared to 2017⁴³².

Training is being developed by the PPRC⁴³³ and carried out in co-operation with the KIPA. In April 2019, the PPRC signed a co-operation agreement with the KIPA in order to develop the public procurement Training of Trainers programme. During 2020, 213 procurement officers were certified under the advanced professional training programme in addition to basic training. Due to the COVID-19 pandemic, the PPRC reorganised the delivery of training during 2020 to enable it to be partially conducted through distance learning.

Training for economic operators is available mainly through private sector companies. There is no comprehensive and regular training for economic operators organised by public institutions. There is a significant decline in the number of positive evaluations of training compared to 2017, as identified in the 2021 SIGMA Public Procurement Survey⁴³⁴, due to the fact that training is mostly focused on legal compliance. Training materials available on the PPRC website are up to date, encompassing video training materials as well, but mostly focusing on references to legal provisions and the use of the e-procurement platform, with very little practical information and few examples of best practice. The PPRC provides advisory assistance to contracting authorities/entities. In 2020⁴³⁵, a total of 2 018 answers were given to contracting authorities through written interpretations, e-mail interpretations, phone calls and meetings. However, the support has been positively evaluated by less than 50% of participants of the 2021 SIGMA Public Procurement Survey⁴³⁶. The PRB and PPRC signed a memorandum of co-operation⁴³⁷ with the aim of defining the general principles of co-operation to advance joint efforts for

⁴²⁹ 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 14.1.1: 60.8% of contracting authorities and 14.1% of businesses found the guidelines 'useful' or 'very useful'. The average is 37.4%, while in 2017 it was 64%.

⁴³⁰ <https://e-prokurimi.rks-gov.net/HOME/ClanakItemNew.aspx?id=233>.

⁴³¹ Some practical examples are provided in the Rules and Operational Guidelines for Public Procurement, but focusing on procedural aspects.

⁴³² 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 14.1.2: 70.6% of contracting authorities and 20.6% of businesses found the standard forms/models 'useful' or 'very useful'. The average is 45.6%, while in 2017 it was 71%.

⁴³³ In line with Article 25 of the PPL, the PPRC is responsible for developing the training modules and curriculum for procurement qualifications. The PPRC, in co-operation with the KIPA, shall arrange for the development and delivery of procurement training courses with a duration of at least 15 days for basic training and 10 days for advanced training.

⁴³⁴ 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 14.1.3: Training sessions were positively evaluated by 61.7% of contracting authorities and 16.0% of businesses. The average is 38.9%, while in 2017 it was 77%.

⁴³⁵ Report on public procurement activities in Kosovo 2020, https://e-prokurimi.rks-gov.net/HOME/Documents/Legislation/Raportet%20Vjetore/shq/Raporti%20vjetor%202020_KRPP.pdf.

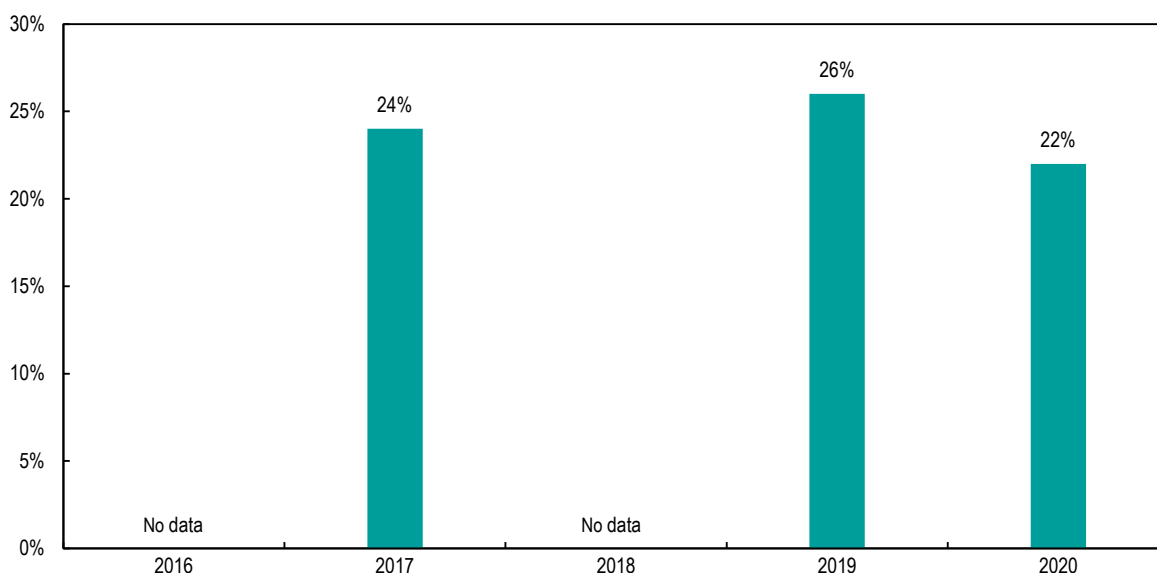
⁴³⁶ 2021 SIGMA Public Procurement Survey of contracting authorities, conducted February-March 2021, Question 14.1.4: Support was positively evaluated by 58.3% of contracting authorities and 38.9% of businesses. The average is 48.6%, while in 2017 it was 54%.

⁴³⁷ Information provided during a SIGMA interview with the PPRC held on 30 March 2021.

an efficient, effective and transparent process in the field of public procurement. Joint meetings are held, but discrepancies between PPRC opinions and PRB decisions were highlighted during the interviews.

In 2020, approximately 22% of procurement procedures above the national thresholds were cancelled⁴³⁸, similar to the value assessed in 2017⁴³⁹ (24%). Weak planning may be one of the main reasons for the frequent cancellations of the procedures, as well as limited expertise of some procurement professionals on drafting the technical specification.

Figure 6. Percentage of procedures cancelled



Source: Reports on public procurement activities in Kosovo.

Conclusion

Practical guidelines and tools are available, focusing on specific stages of procurement procedures and use of the e-procurement platform. However, these documents do not cover the specificities of public procurement for key sectors, such as construction or health, and they lack examples of best practice. Training for the contracting authorities is provided, but it is focused almost exclusively on legal compliance, and there is no regular training for economic operators. The PPRC also provides consultations through its help desk.

⁴³⁸ SIGMA interviews

⁴³⁹ Annual reports.

External audit

Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.

Overall, the value for the indicator 'Independence of the supreme audit institution' is 4, the same as in 2017. The independence of the NAO has been proven in practice, although the perceived independence of the NAO by the population has declined.

Indicator 6.15.1 - Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently, and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
Overall 2021 indicator value	0	1	2	3	4	5
					Points 2021	Change from 2017
1. Constitutional and legal independence of the SAI					4/4	+1
2. Organisational and managerial independence of the SAI					5/5	=
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)					3/3	=
4. Access to information and premises					1/1	=
5. Perceived independence of the SAI by the population (%)					0/3	-1
Total					13/16	=

The Constitution⁴⁴⁰ establishes the independence and mandate of the AG and the NAO and the right to report on the management of public funds in Kosovo. The July 2020 Judgement of the Constitutional Court⁴⁴¹ has reconfirmed the direct establishment of functional and organisational independence of the AG in the Constitution.

The independence, mandate and organisation of the NAO is further defined in the Law on the Auditor-General and the National Audit Office⁴⁴² (the Audit Law), which states that the NAO is functionally, financially and operationally independent and exercises its functions independently from any other body or authority in Kosovo. The NAO implements its budget and performs its statutory functions independently and is free from undue direction or interference from the legislature or the Executive in the organisation and management of its office, including individual recruitment decisions.

While the legislation does not specifically provide protection of the AG's and NAO's independence and audit mandate by a Supreme Court, the Judgement of the Constitutional Court demonstrated that there is adequate protection against any such interference. The Constitution and the Audit Law clearly set out the procedure and criteria for the appointment and dismissal of the AG, and there have been no attempts to remove the AG from office.

The Audit Law provides the NAO with a broad mandate to carry out financial, compliance and performance audits in compliance with internationally recognised public sector audit standards across all budget

⁴⁴⁰ The Constitution, Article 136.

⁴⁴¹ Judgment KO203/19 of the Constitutional Court, regarding the assessment of the constitutionality of Law no. 06/L-114 on Public Officials, published in July 2020 <https://gjk-ks.org/en/decisions-from-the-review-session-held-on-30-june-2020/>.

⁴⁴² The Law on the Auditor-General and the National Audit Office, Articles 4 and 5.

institutions at both central and local government levels, all publicly owned enterprises and other legal persons in which the State has shares or loans, credits and liabilities which are guaranteed by the State.

The Audit Law also provides the AG with unrestricted access to all information, explanations and premises that he deems are necessary for audit purposes, and our interviews confirmed that there had been no restrictions in practice

The 2021 Balkan Barometer survey shows that 30.7% of the population agree the NAO is independent of political influence. This is a significant decrease from 48% in 2017 and is below the regional average of 32%.

Conclusion

The Audit Law regulates the independence of the AG and NAO in line with the INTOSAI Framework of Professional Pronouncements. The NAO is free to implement its budget and use its financial resources as it considers appropriate. It is free from interference from the legislature and the Executive in its organisation and management. The NAO has a broad mandate, which it fulfils without restrictions.

Principle 16: The supreme audit institution applies standards in a neutral and objective manner to ensure high-quality audits, which positively impact on the functioning of the public sector.

Overall, the value for the indicator ‘Effectiveness of the external audit system’ is 3, the same as in 2017. The implementation of the ISSAIs is well progressed, but quality assurance arrangements have yet to be fully implemented.

Indicator 6.16.1 – Effectiveness of the external audit system						
This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits (e.g. through its manuals and quality assurance system).						
Overall 2021 indicator value	0	1	2	3	4	5
				Points	Change from	
				2021	2017	
1. Coverage of mandate by external audit				6/6	=	
2. Compliance of audit methodology with ISSAIs				4/6	+1	
3. Quality control and quality assurance of audits				2/6	-3	
4. Implementation of SAI recommendations (%)				2/6	+1	
5. Use of SAI reports by the legislature				6/6	+1	
Total				20/30	=	

The Audit Law obliges the NAO to annually carry out statutory regularity audits of the Government’s AFS on the execution of the budget and the annual financial statements of all BOs that are funded directly from the annual Budget Law. During 2020, the NAO fulfilled this audit task and performed all mandatory audits for the financial year ended 31 December 2019.

In total the NAO performed and reported on 119 regularity audits in 2020, for the financial year ended 31 December 2019, including the audit of the AFS on the execution of the budget and the audits of 95 BOs (57 central institutions and 38 municipalities), 14 POEs and 9 donor-funded projects⁴⁴³.

While the NAO has no mandatory performance audit requirement, it ensures a wide coverage of policy areas. In 2020 the NAO issued eight performance audit reports on the economy, health, education, public investments, public procurement, the environment and information technology. All audit reports were published on the NAO website.

The Audit Manual on Financial and Compliance Audit (Regularity Audit – combined audit approach) was updated in 2020 in co-operation with the Polish SAI through a Twinning Project funded by the EU. A new performance audit manual was adopted in 2016 with the support of the Swedish NAO, and it will be updated during 2021 with further Swedish NAO support. In co-operation with KPMG and with the support of USAID, the Guidance on Strategic Planning in Performance Audits will also be developed in 2021. The manuals are broadly in compliance with the ISSAIs, but SIGMA’s review indicated that there were some gaps, in particular related to compliance audit principles.

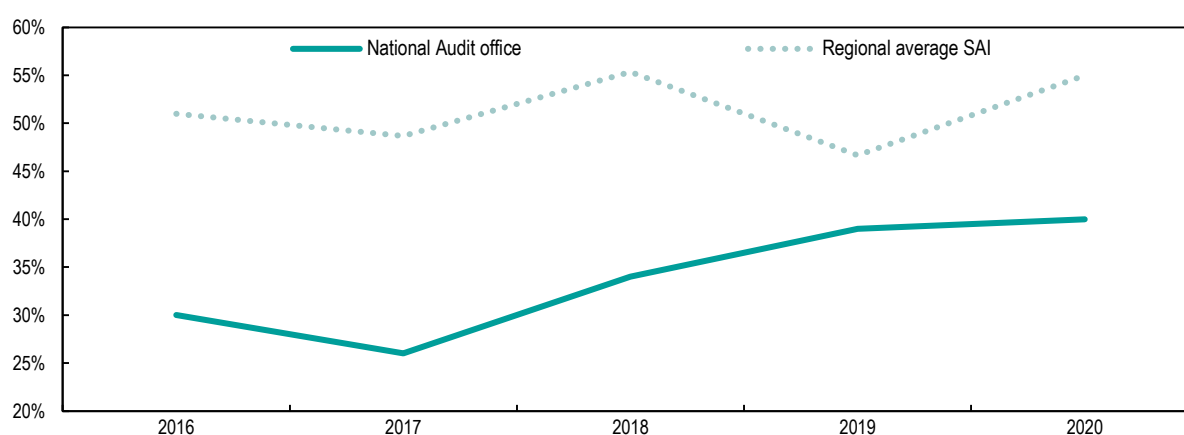
The NAO has quality control procedures in place over its audit work, but quality assurance arrangements are still being developed. The quality control procedures require directors of audit departments and audit team leaders to individually fill out quality control checklists at the planning, fieldwork and reporting phases. The checklists are sent to the Department for Audit Quality Control (DAQC), together with the audit plan or audit report, for a separate review. For the fiscal year 2019, 35 reviews of regularity audit files were conducted in the planning stage and 39 reviews in the execution stage. For the fiscal year 2020 it was planned to review 57 regularity audits and by March 2021, 27 reviews at the planning stage had been completed. SIGMA reviewed three sample DAQC Quality control reports which showed that audits

⁴⁴³ NAO Annual performance report 2019, p 14.

were conducted in accordance with NAO policies and practices as set out in the Regularity Audit Manual and relevant Guide.

Formal mechanisms for handling NAO reports in the Assembly are in place, with the Committee for Oversight of the Public Finances formally dedicated to handling the NAO's reports. The NAO sends audit reports to the Assembly as soon as the audit results are confirmed, and 132 reports were submitted in 2020. The Committee develops a meeting plan for the entire session of the Assembly. In 2020, the Committee held more than five hearings and reviewed 24 audit reports, including reports on 14 ministries, eight POEs and the 2019 Annual Audit Report. The implementation of recommendations is discussed at the Committee meetings, and deadlines are set for the auditees to report on the implementation of recommendations. While the implementation of the NAO's recommendations has improved, the current implementation rate is still only around 40% and below the regional average. Figure 3 shows the implementation rate of the NAO's recommendations for 2016-2020 compared to the regional average

Figure 7. Implementation of NAO recommendations 2016-2020



Source: Annual Reports of the National Audit Office.

Conclusion

The NAO meets its audit mandate by completing regularity audits of all budget institutions and the AFS of the Budget, along with a number of performance audits. The audit manuals and internal quality control arrangements are broadly in compliance with ISSAI's, although there are areas for improvement. The audit quality assurance procedures are in the process of development. The NAO's audit reports are used by a Committee of the Assembly to scrutinise the Executive and follow up on implementation of recommendations. However, the implementation rate of the recommendations is low.

For more information:

OECD/SIGMA

2 rue André Pascal
75775 Paris Cedex 16
France

mail to: sigmaweb@oecd.org
Tel: +33 (0) 1 45 24 82 00

www.sigmaweb.org