



Baseline Measurement Report:

The
Principles
of Public
Administration

SERBIA

April
2015

Authorised for publication by Karen Hill, Head of the SIGMA Programme

This document has been produced with the financial assistance of the European Union. It should not be reported as representing the official views of the EU, the OECD or its member countries, or of beneficiaries participating in the SIGMA Programme. The opinions expressed and arguments employed are those of the author(s).

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS	2
OVERVIEW	4
STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM	6
1. State of play and main developments: 2014-April 2015	6
2. Analysis	7
POLICY DEVELOPMENT AND CO-ORDINATION.....	16
1. State of play and main developments: 2014-April 2015	16
2. Analysis	17
PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT	40
1. State of play and main developments: 2014- April 2015	40
2. Analysis	42
ACCOUNTABILITY	59
1. State of play and main developments: 2014-April 2015	59
2. Analysis	60
SERVICE DELIVERY	71
1. State of play and main developments: 2014-April 2015	71
2. Analysis	72
PUBLIC FINANCIAL MANAGEMENT	81
1. State of play and main developments in 2014-April 2015	81
2. Analysis	83

LIST OF ABBREVIATIONS AND ACRONYMS

ACA	Anti-Corruption Agency
BSL	Budget System Law
CHU	Central Harmonisation Unit
CoG	centre of government
CPR	Commission for the Protection of Rights in Public Procurement
CSL	Civil Service Law
EC	European Commission
EI	European integration
EU	European Union
FMC	financial management and control
GAWP	Government Annual Work Plan
GDP	gross domestic product
GFS	Government Finance Statistics
GSG	General Secretariat of the Government
HCSC	High Civil Service Council
HR	human resources
HRM	human resource management
HRMS	Human Resources Management Service
IA	internal audit
IMF	International Monetary Fund
IPA	Instrument for Pre-accession Assistance
LSA	Law on State Administration
MAEP	Ministry of Agriculture and Environmental Protection
MoF	Ministry of Finance
MPALSG	Ministry of Public Administration and Local Self-Government
MTBF	medium-term budgetary framework
MTTT	Ministry of Trade, Tourism, and Telecommunications
NAD	National Priorities for International Assistance
NGO	non-governmental organisation
NPAA	National Plan for the Adoption of the <i>Acquis</i>
OECD	Organisation for Economic Co-operation and Development

Serbia
List of Abbreviations and Acronyms

PAR	public administration reform
PFM	public financial management
PIFC	Public Internal Financial Control
PPL	Public Procurement Law
PPO	Public Procurement Office
PPP	public-private partnership(s)
PPS	Public Policy Secretariat
RIA	Regulatory Impact Assessment
RoP	rules of procedure
RSD	Serbian dinar
RSL	Republic Secretariat for Legislation
SAI	Supreme Audit Institution
SEIO	Serbian European Integration Office
SOE	state-owned enterprise
VAT	value added tax

OVERVIEW

The European Commission (EC) has strengthened its focus on public administration reform (PAR) in the “Enlargement Strategy and Main Challenges 2014-2015” by outlining six key issues of reform. Based on the Enlargement Strategy, the Principles of Public Administration were developed by SIGMA in co-operation with the EC.¹ The Principles cover six areas: strategic framework for public administration reform, policy development and co-ordination, public service and human resource development, accountability, service delivery and public financial management (including public procurement); they define what good governance entails in practice and outline the main requirements to be followed by countries during the European Union (EU) integration process. The Principles also feature a monitoring framework enabling regular analysis of the progress made in applying the Principles and setting country benchmarks.

This Country Report sets the baseline values for the indicators included in the monitoring framework and provides analysis on where the country stands against the Principles. It covers the period from January 2014 to April 2015, which is shortened to April 2014 to April 2015 in areas where a SIGMA assessment was conducted in 2014. The analytical report is complemented by the Methodological Annex, which defines the indicators included in the monitoring framework.

General state of play in Serbia

Following the first Intergovernmental Conference on Serbia’s accession to the European Union, which was held in January 2014, the Government has actively pursued the EU integration agenda. The EU *acquis communautaire* screening process proceeded according to plan and it was completed in March 2015. Both the EU and the Serbian Government have placed the opening of negotiating chapters high on their 2015 agendas. In its annual Progress Report published on 8 October 2014, the EC stated that for the period 2014-2020, the Instrument for Pre-accession Assistance (IPA) would focus on supporting reform efforts in direct line with the negotiation process, in particular in the area of rule of law and governance, as well as competitiveness and growth.

Start of the accession negotiations brings new responsibilities in all areas covered by the Country Report and Serbia needs to deliver concrete results on the reform agenda and ensure ownership of reforms. To achieve that, a well-functioning public administration is a key area. There has been progress in reforming public administration, but challenges still remain.

The legal framework for a functioning public administration is in place in Serbia, but the lack of effective institutional structures and inter-institutional co-operation hinders implementation of the legislation.

The Public Administration Reform Strategy, which was approved in 2014, and the PAR Action Plan, approved in 2015, provide the foundation for implementing more cost-effective ways of delivering public services but the reforms will only be achieved if they are developed and implemented in a co-ordinated manner involving the key centre of government institutions.

The delivery of tangible results for the PAR agenda, as well as properly implementing the *acquis communautaire*, is dependent on ownership of the reform process and adequate administrative capacity. It is also dependent on appropriate institutional independence being guaranteed, especially in those cases where transparency and accountability are essential.

The reform agenda needs to be delivered within the framework of the Government’s fiscal consolidation programme, which aims to stabilise the public finances by 2017.

¹ See for *The Principles of Public Administration* and relevant background information on the SIGMA website: <http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf>

1

Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Public administration reform (PAR) is acknowledged by the Government of Serbia as one of its priorities. The administrative responsibility for PAR within the Government rests with the Ministry of Public Administration and Local Self-Government (MPALSG). In 2014, the PAR Strategy² was adopted, followed by a PAR Action Plan³ early in 2015. Co-ordination and management structures for PAR have been established, consisting of a number of formalised discussion forums, including at two political levels and one technical level. The PAR framework is now complete, although progress on its implementation cannot yet be assessed due to the recent nature of these developments. The PAR priorities are well defined and are set out in terms of measures and activities within the Action Plan. The costs of these activities are clearly defined (including different sources of funding).

1.2. Main developments

After the elections and the formation of the new Government, the responsibility for PAR was removed from the Ministry of Justice and given instead to the MPALSG⁴. It should be noted that the Minister of Public Administration and Local Self-Government is also the Deputy Prime Minister.

A new PAR Strategy was adopted in January 2014, followed by a detailed PAR Action Plan in March 2015.

The following co-ordination mechanisms have been put in place: a new high-level co-ordination body – the PAR Council⁵ – was created and put into operation; the Assistant Minister of MPALSG took the role of Secretary of the PAR Council⁶; other co-ordination bodies envisaged in the PAR Strategy were also created: the College of State Secretaries⁷ and an Inter-Ministerial Project Group⁸.

² Government of Serbia (2014), PAR Strategy in the Republic of Serbia 2014, Official Gazette No. 55/05.

³ Government of Serbia (2015), Decision No. 021-3092/2015 on the Action Plan implementing the PAR Strategy in the Republic of Serbia for the period 2015-2017.

⁴ Article 10 of the Law on Ministries, Official Gazette No. 44/2014.

⁵ Government of Serbia (2014), Decision on the Establishment of the PAR Council, Official Gazette No. 79/14 and 86/14.

⁶ Decision of the PAR Council on the Appointment of the Secretary of the PAR Council, 30 October 2014.

⁷ Minutes from the first meeting of the Council for PAR, 28 August 2014.

⁸ Decision of the MPALSG on the establishment of the Inter-Ministerial Project Group on co-ordination and implementation of the PAR Strategy, 23 February 2015.

2. ANALYSIS

This analysis covers the five Principles for the strategic framework of PAR area, grouped under two key requirements⁹. For each key requirement, a baseline value for each indicator on the monitoring framework of the Principles is provided. The Principles cover the analysis of Government central planning, as well as specific PAR planning document(s) and their links to the Government's financial planning documents. The Principles also examine the set-up and operation of the PAR management and co-ordination mechanisms, both at political and administrative levels.

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

Baseline values

The leadership and strategic framework of PAR is examined through eight different indicators, which aim to describe the country's general approach to defining reform objectives and actions, the comprehensiveness of the scope of PAR, links to financial planning and the rate of implementation. The PAR reporting and monitoring system is also assessed. Two out of the eight indicators are qualitative, while the rest are quantitative, based on the analysis of data and documents provided by the responsible institutions of the country.

In Serbia, PAR is mentioned in the central planning documents as one of the Government's priorities, but not fully and coherently across all of them. The strategic PAR framework is almost complete and covers PAR areas at a satisfactory level of detail. The PAR planning documents focus on clearly formulated objectives and actions that present a reform-focused agenda. As the PAR Action Plan was only recently adopted, it is not yet possible consistently to assess the implementation of the reforms. The vast majority of the measures and actions identified are resourced and costed, and indicate different sources of funding.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of PAR central planning document(s) is complete.	2014	4
	2	Extent to which a comprehensive PAR reporting and monitoring system is in place.	2014	1
Quantitative	1	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	2014	50%
	1	Share of public administration development activities and reforms from all activities in PAR planning documents.	2014	76%
	2	Annual implementation backlog of public administration development activities and reforms.	2014	Not available ¹⁰

⁹ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 9-17.

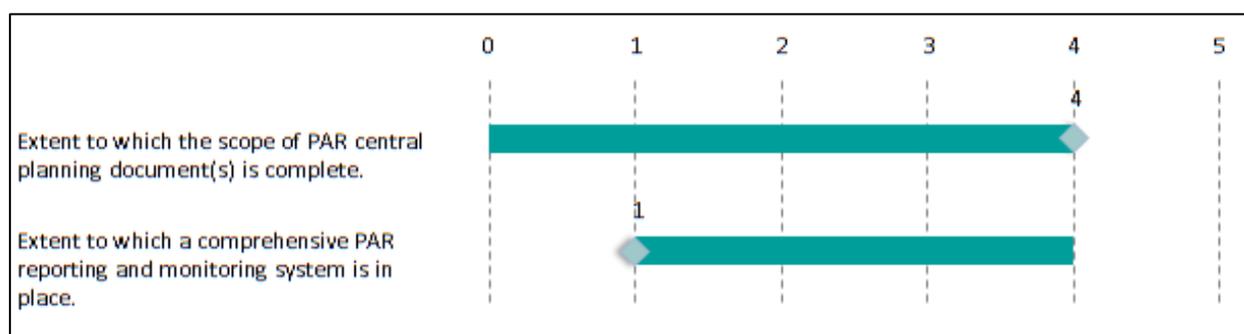
¹⁰ The value of the indicator cannot be calculated because the PAR Action Plan was adopted only in 2015, while the PAR Strategy that was adopted in early 2014 did not foresee particular reform actions.

Serbia
Strategic Framework of Public Administration Reform

	2	Percentage of fulfilled PAR objectives.	2014	Not available ¹¹
	3	Share of resourced and costed PAR measures.	2014	94%
	3	Ratio between planned PAR Instrument for Pre-accession Assistance (IPA) funding in the IPA sectoral programme and the national planning documents.	2014	93.5% ¹²

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

While PAR is acknowledged as one of the Government's priorities by central planning documents – the Exposé of the Prime Minister (2014)¹³, the Government Work Plan 2014¹⁴, the Government Work Plan 2015¹⁵, National Priorities for International Assistance (NAD) 2014-2017¹⁶, the National Programme for Adoption of the EU *Acquis* 2014¹⁷ and the Fiscal Strategy 2015-2017¹⁸ – not all documents feature the PAR objectives coherently and uniformly. For example, the Exposé of the Prime Minister features PAR as a general priority, mentioning that it will improve the efficiency of the public administration and subsequently increase the quality of services provided to citizens, but it does not address other results, such as the improved co-ordination of public policies. Furthermore, although the annual Government

¹¹ The indicator value cannot be established for 2014, as the PAR Strategy did not have any measurable objectives (performance indicators and targets). The PAR Action Plan adopted in early 2015 includes performance indicators and specific targets that will allow monitoring of implementation of the specific PAR objectives in the future.

¹² The indicator has been calculated by comparing PAR-related funding from IPA programmes foreseen in IPA 2013 and IPA 2014 fiches, and relevant funding foreseen in the PAR Action Plan. The indicator value is not 100% because of the difference in total amount of IPA 2014 funding foreseen in the PAR Action Plan and that foreseen in IPA 2014 fiches.

¹³ Exposé of the Prime Minister of the Republic of Serbia Aleksandar Vučić, 22 April 2014, http://www.srbija.gov.rs/extfile/sr/208700/ekspeze_aleksandar_vucic_cyr270414.doc

¹⁴ Government Work Plan 2014, December 2013.

¹⁵ Government Work Plan 2015, January 2015.

¹⁶ Government of Serbia (2014), *National Priorities for International Assistance*, Belgrade.

¹⁷ National Programme for the Adoption of the EU *acquis*, European Integration Office, July 2014.

¹⁸ Fiscal Strategy for 2015, with Projections for 2016 and 2017.

Serbia
Strategic Framework of Public Administration Reform

Work Plans do not feature objectives set out by the PAR Strategy, they do include some actions related to its implementation. Overall, the relevant indicator is set at 50% for the coherence of PAR objectives in central planning documents.

The Government enacted the PAR Strategy in 2014 and a PAR Action Plan followed in early 2015. The PAR Strategy defines the PAR priorities and objectives, while the PAR Action Plan defines precise performance targets and actions to achieve them. As these PAR planning documents cover all of the PAR areas either fully or at least partially, the value of the indicator for the PAR scope is set at 4. The area of service delivery could benefit from a more detailed explanation of existing problems and suggested solutions.

The PAR Action Plan sets the reform agenda for the period 2015-2017 very clearly, with the overwhelming majority of measures and activities focusing on reform activities, i.e. 76% of all activities are of a reform and development nature, and only some remain process oriented. Measures and actions from the PAR Action Plan include measurable indicators and the costs associated with their implementation, as well as clearly defined deadlines for their achievement.

Currently, the central planning documents of the Government of Serbia acknowledge PAR as one of the key reforms. The PAR Strategic Framework is in place, and now it remains to be seen whether the MPALSG and other involved institutions will implement the ambitious reform agenda according to the set sequence and deadlines.

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

The performance indicators – both on outcome and output levels – defined in the PAR Action Plan, are measurable and time bound. In addition, responsibility for their implementation is clearly assigned to a specific ministry and, for certain actions, to a specific unit within the particular ministry. The PAR Action Plan also includes a clear and elaborate description of the monitoring, reporting and evaluation system that will come into operation in late 2015.

Since the PAR Action Plan was adopted only in March 2015, results of the implementation of the PAR Strategy cannot be assessed here. It should be noted, though, that Annex 4 of the PAR Action Plan does provide information on activities implemented during 2014. Despite this, however, it is not possible to determine the value for the indicator analysing the annual implementation backlog of public administration development activities.

Also, the PAR Strategy does not include particular performance indicators and targets that would allow for the implementation rate of the set policy objectives to be assessed. Therefore, the value of the indicator for implemented PAR objectives cannot be established for 2014. These shortcomings have been addressed in the PAR Action Plan, and in the future, performance information gathered through the reporting and monitoring system should allow for the implementation of the set policy objectives to be analysed.

The reporting and monitoring system set out in the PAR Action Plan is comprehensive. The system will become fully operational only late in 2015, so a value of 1 is attributed to the indicator assessing the extent to which a comprehensive monitoring and reporting system is in place for 2014; the reporting and monitoring system will be reviewed in the forthcoming period.

While the monitoring and reporting system for PAR is as yet largely unimplemented, the PAR Action Plan does provide a good monitoring framework which sets out clear targets for performance indicators. The results are defined by both outcome and output-level indicators.

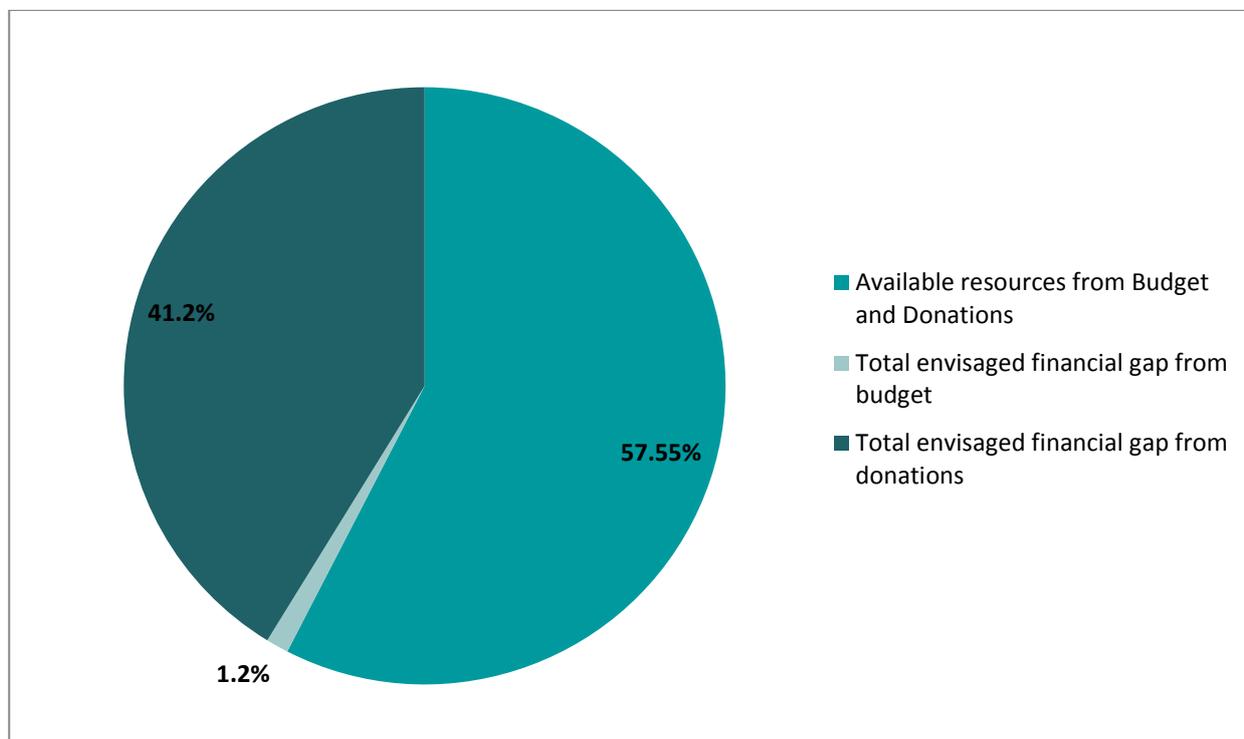
Principle 3: Financial sustainability of public administration reform is ensured.

The measures in the PAR Action Plan are well-resourced and costed, and include an identified source of funding, be it the national budget or donor funding. In total, 94% of the actions in the PAR Action Plan

Serbia
Strategic Framework of Public Administration Reform

are costed. However, not all of the measures are fully covered financially¹⁹, so there could be a shortfall in implementation due to a lack of funding, especially considering the Government's current engagement in "right-sizing" the public administration through a series of function reviews, and staff and salary cuts. However, this remains to be tested against the approved budgets of the institutions involved in coming years.

Figure 2. Share of funding sources for the PAR Action Plan



Source: Annex 5 of Action Plan for Implementation of Public Administration Reform Strategy, 2015-2017

The correlation of PAR measures and allocations in the Fiscal Strategy and the Annual Budget²⁰ is not explicit. While the Fiscal Strategy mentions the PAR priorities only in general terms, the Annual Budget includes a breakdown of funds to individual ministries, as well as a breakdown of IPA resources for PAR.

The recently adopted PAR Action Plan establishes clear links with the financial allocations of IPA funds, and does so in almost full accordance with the IPA programming documents for the appropriate reference years (2013 and 2014) used for analysis, leading to a value of 93.5% for the indicator analysing the correspondence between planned PAR IPA funding in the IPA fiches for 2013 and 2014, and the national planning documents in the field of PAR. The main reason for the two sets of documents not complying 100% is the exclusion of administrative costs associated with implementation of IPA support (e.g. management of the grant schemes, including administrative and support staff, a contingency reserve, travel costs and other similar types of expenses) from the costs identified in the PAR Action Plan. The PAR Action Plan also includes some references to actions that have already been implemented under IPA 2011 and IPA 2012 allocations.

Overall, the costs for the implementation of the PAR actions have been clearly assessed and identified in the PAR Action Plan. The Annual Budget for 2015 provides a detailed breakdown of funds, including from international sources, available to individual institutions involved in PAR implementation. The current Fiscal Strategy does not explicitly provide information on the medium-term allocations for PAR policy; however, it acknowledges PAR as one of the Government's priorities. The financial sustainability of the new reform programme – as set out by the PAR Action

¹⁹ An overview of granted and missing funds for PAR Action Plan implementation in Annex 5 (p. 81) of the PAR Action Plan clearly identifies the amount of missing funds needed for the implementation of each individual measure.

²⁰ The Law on Budget of the Republic of Serbia for the Year 2015.

Plan – remains to be evaluated based on the allocation of funds in the 2016 Annual Budget, and the resources earmarked in the next medium-term Fiscal Strategy.

Key recommendations

Short-term (1-2 years)

- 1) The MPALSG should implement the system of monitoring and reporting envisaged by the PAR Action Plan, and should deliver the first monitoring reports in 2015. Annual monitoring reports prepared from 2016 onwards should look beyond the implementation rate of individual actions and provide information on the outcomes of reform measures taken, based on the set performance indicators and their targets. Clear guidance and training should be provided for responsible officials from other ministries who are involved in the monitoring and reporting of PAR.

Medium-term (3-5 years)

- 2) The MPALSG, with the Ministry of Finance, should ensure that medium-term financial planning documents provide clear appropriation ceilings for the implementation of the PAR agenda.
- 3) The first fully fledged *ex post* evaluation of the programme should be undertaken as per the PAR Action Plan in order to make decision makers aware of actual progress in achieving the set PAR objectives, including a full impact assessment supported by data from identified outcome-level performance indicators.

2.2. Key requirement: Public administration reform management enables guiding and steering reforms, determines the accountability for implementation and ensures the professional administration needed for reform implementation.

Baseline values

The functioning of the PAR management and co-ordination mechanism is examined through one qualitative and four quantitative indicators. The indicators provide information on operations of the mechanism and also examine the capacity of the leading PAR unit to support the functioning of the PAR management and co-ordination mechanism.

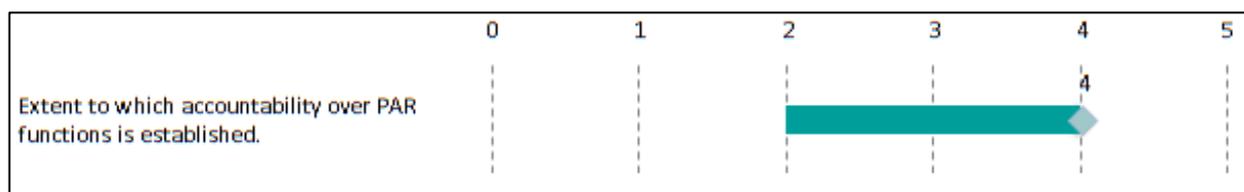
In Serbia, while the monitoring framework for PAR implementation is well grounded, it remains to be seen how it will perform in practice, as it was only recently established. The PAR Council and other co-ordination structures were established according to the mechanism set out in the PAR Strategy. The MPALSG has been designated through legislation as the lead ministry for PAR, and is supported by a separate unit dealing with PAR design and monitoring. There are regular capacity-building activities for the staff of the MPALSG involved in co-ordinating and monitoring the implementation of PAR.

Serbia
Strategic Framework of Public Administration Reform

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which accountability over PAR functions is established.	2014	4
Quantitative	4	Frequency of PAR-related political discussions.	2014	8 ²¹
	4	Implementation rate of decisions made by political and administrative-level PAR co-ordination forums.	2014	100%
	5	Annual staff turnover in leading PAR unit.	2014	0%
	5	Proportion of leading PAR unit staff that has undertaken at least two PAR-related trainings during the last year.	2014	50%

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

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

The four-level PAR management and co-ordination structure anticipated by the PAR Strategy²² has recently been established. In addition, there is a fifth level consisting of the regular Government meetings at which decisions on the actual implementation of the reform actions are made. During 2014, the Government discussed PAR-related issues at three meetings, and two meetings of other political-level forums included PAR on their agendas²³.

The PAR Council is the fourth level of the management and co-ordination structure and includes 13 Government ministers; it is formally presided over by the Prime Minister²⁴. The Council met twice in 2014 and took decisions which triggered the activation of PAR co-ordination at sub-levels. The

²¹ This value represents the total number of PAR-related discussions held during 2014. It is a quantitative, not a qualitative indicator and, therefore, should not be regarded as an indicator for scale.

²² Government of Serbia (2014), "5. Public Administration Reform Management" of the PAR Strategy in the Republic of Serbia, Official Gazette No. 55/05.

²³ Information provided by the MPALSG.

²⁴ Government of Serbia (2014), Decision on the Establishment of the PAR Council, Official Gazette No. 79/14 and No. 86/14.

Serbia
Strategic Framework of Public Administration Reform

meetings of the PAR Council ensure that decisions sent forward to the Government meetings have been discussed beforehand to avoid any outstanding issues.

The College of State Secretaries²⁵, the third political level of the PAR co-ordination body, also commenced operations in 2014 with one meeting being held.

During 2014, the second level of the management and co-ordination structure – the interministerial expert group– operated on an informal basis and was mainly involved in the detailed development of the PAR Action Plan. The formal establishment of this management and co-ordination structure occurred in February 2015²⁶. It should be noted that this discussion forum also includes representatives from relevant non-governmental organisations (NGOs).

It was envisaged that the first level, covering the management and co-ordination of PAR policy, would be undertaken by the main responsible institution – the MPALSG²⁷ – on a daily basis. Recently, a separate unit for the implementation of PAR and professional development was established within the ministry.

During 2014, all levels of the PAR management and co-ordination structure, apart from the inter-ministerial expert group, were formally convening and performing functions assigned to them. There were a total of three meetings of the political-level forums of the PAR Council and the College of State Secretaries, whose decisions were fully implemented. For this reason, the value of the indicator is set at 100%.

During 2014 and early 2015, Serbia incrementally established all of its proposed PAR management and co-ordination structures. In addition, all decisions taken under these structures to date have been fully implemented. The current co-ordination system for PAR has many different levels; however, it will only be possible to fully assess the effectiveness of these structures after the implementation of the PAR Action Plan commences.

Principle 5: One leading institution has responsibility and capacity to manage the reform process; involved institutions have clear accountability and reform implementation capacity.

Under the provisions of the Law on Ministries²⁸, the MPALSG is designated as the lead institution in the field of PAR. Within the MPASLG, a unit for the implementation of PAR and professional development was established in 2014²⁹ and charged with the day-to-day work related to the co-ordinated implementation of the PAR Strategy and Action Plan, including the provision of secretarial support to PAR management and co-ordination forums.

The total number of staff in the unit is currently four, and none had changed during the last year so a staff turnover value of 0% is set for the indicator. The Rulebook of the MPALSG envisages five staff members in the unit, of which three positions are currently filled by civil servants, one position is contract-based and one is still vacant³⁰.

Half of the staff members (50%) were involved in more than two PAR-related training courses during 2014, thereby enhancing the skills required for effective co-ordination³¹.

²⁵ Minutes from the first meeting of the Council for Public Administration Reform, 28 August 2014.

²⁶ Decision of the MPALSG on the establishment of the Inter-Ministerial Project Group on co-ordination and implementation of the PAR Strategy, 23 February 2015.

²⁷ Government of Serbia (2014), “5. Public Administration Reform Management”, in the PAR Strategy in the Republic of Serbia, Official Gazette No. 55/05.

²⁸ The Law on Ministries, Official Gazette No. 44/2014.

²⁹ Regulation on Internal Organisation and Job Classification in the MPALSG, July 2014.

³⁰ Information provided by the MPALSG, www.mduls.gov.rs/doc/PRAVILNIK%20Ministarstva%20drzavne%20uprave%20i%20lokalne%20samouprave%20-%20JUL%202014%20%2013082014.pdf.

³¹ Information on training provided to the PAR and Training Division in the General Directorate for Public Administration, Labour and Salary Issues of the MPALSG.

Serbia
Strategic Framework of Public Administration Reform

Other institutions involved in PAR have clearly designated tasks for the implementation of reform activities, as set out in the PAR Action Plan. The Action Plan clearly separates the role of the main responsible institution from that of other institutions involved in the implementation of any particular activity. In this way, misunderstandings regarding accountability can be avoided. Taking all of these circumstances into account, a value of 4 is attributed for the extent to which accountability over PAR functions is established. This value indicates a well-structured system of responsibility. The maximum value of the indicator was not set because the PAR Action Plan has not yet been implemented, and it remains to be seen whether the accountability lines will be observed.

Overall, there is a clear distribution of responsibilities among the institutions involved in the implementation of PAR policy in Serbia. The MPALSG is the lead institution and has a specially designated unit within it to deal with the daily co-ordination of PAR issues. The capacity of the unit will be properly tested only when the implementation of the recently adopted PAR Action Plan commences. Institutions involved in the implementation of PAR actions are clearly aware of their responsibilities.

Key recommendations

Short-term (1-2 years)

- 1) The PAR management and co-ordination bodies should continue to meet regularly and discuss the progress achieved in the implementation of the PAR Action Plan. It is important that regular biannual and annual progress reports be prepared, as envisaged in the PAR Action Plan, to clearly identify the main problems observed during implementation and to ensure that the political-level forums are in a position to make decisions on necessary improvements.
- 2) The PAR co-ordination unit of MPALSG should be fully staffed, to ensure that all PAR management and co-ordination functions can be implemented.
- 3) The MPALSG should ensure that its staff members continue to receive regular PAR-related training.

Medium-term (3-5 years)

- 4) During the medium-term review of the PAR Strategy and the PAR Action Plan envisaged for 2017, the MPALSG should assess the effectiveness of the PAR co-ordination mechanism and evaluate whether it can be simplified and streamlined.



POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The legal framework for policy development and co-ordination, including European integration (EI), is in place and does not require any substantial changes in the coming years. The Serbian administration is performing reasonably well on several aspects of policy development and co-ordination that are laid down in key laws and the Government Rules of Procedure (RoP), notably providing information on its work to the public through reports and public availability of legislation. However, there are shortcomings in implementation capacity and quality of Government outputs with respect to policy planning from a medium-term strategic perspective; the costing of policies and scrutiny of proposals from an affordability perspective; aligned and comprehensive monitoring of policies and plans to check attainment of policy objectives; proper application of tools for evidence-based policy making; comprehensive public consultation; and effective interministerial conflict resolution.

1.2. Main developments

In the new Law on Ministries³², the Serbian Government established the Public Policy Secretariat of the Republic of Serbia (PPS), as a special organisation of the Government³³ to steer strategic planning and co-ordinate policy development.

The Ministry of Finance (MoF) adopted a by-law regulating requirements for public administration institutions to assess impacts of legislation, strategic and other documents onto the budget of the Republic of Serbia at the end of March 2015³⁴. This new regulation gives comprehensive guidance on how to develop and present financial impact estimation for all types of policy documents. It is in force and will be followed by institutions from April 2015.

³² Official Gazette No. 44/2014.

³³ On the basis of Articles 23 and 33, the Law on the Government.

³⁴ By-law on the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget (110-00-171/2015-03, 31 March, 2015).

2. ANALYSIS

The analysis covers the 12 Principles of the policy development and co-ordination area, grouped under 4 key requirements³⁵. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover a whole policy cycle and address functioning of the centre of government (CoG); policy planning, co-ordination and monitoring; Government decision making; and development of policy and legislation. The Principles also cover the necessary arrangements for EI throughout the policy cycle.

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

Baseline values

The functioning of the CoG is examined through two qualitative indicators. One indicator covers all nine critical functions defined in the Principles of Public Administration³⁶, while the other is a specific indicator to analyse how the key EI functions are implemented by the administration. These qualitative indicators analyse establishment of the functions and how they are implemented. Precise methodology and scales can be found in the Methodological Annex.

In Serbia, seven of the nine key functions critical for operation of the CoG are established and working as expected. However, there is no evidence that co-ordination of Government communication is carried out, and co-ordination of the policy content of proposals is only partially regulated³⁷, although this function is also fulfilled by the PPS (a CoG institution), through analysis of Regulatory Impact Assessments (RIAs). Shortcomings regarding the outcomes of several functions can be observed, as the analysis will show in more detail for other Principles. EI functions are all established and are functioning satisfactorily for the current stage of the enlargement process.

	Principle No.	Indicator	Baseline year	Baseline value
Qualitative	1	Proportion of critical CoG functions that are fulfilled by the institutions.	2014	4
	2	EI functions are fulfilled by the institutions.	2014	4

³⁵ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 18-40.

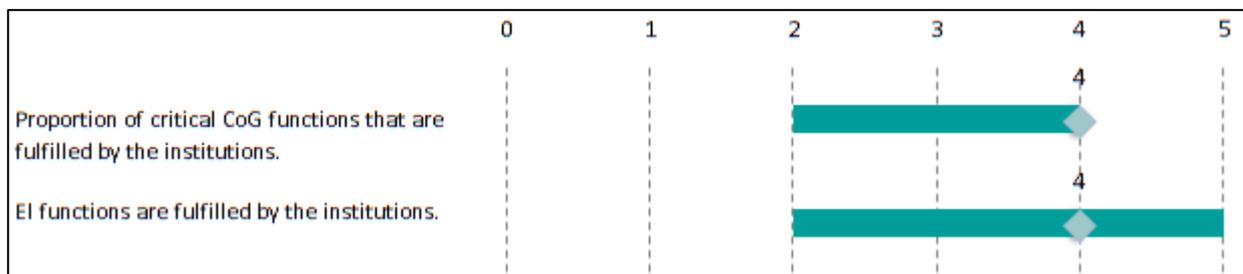
³⁶ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, p. 21.

³⁷ The function is described in the Systematisation of the PPS, but not comprehensively in the RoP.

Serbia
Policy Development and Co-ordination

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

Five institutions fulfil the functions of the CoG in Serbia: 1) the General Secretariat of the Government (GSG), which co-ordinates preparation of Government sessions, develops the annual work plan of the Government, monitors the fulfilment of the plan, and is responsible for co-ordinating communication activities of the Government and for the relationship with other state bodies; 2) the PPS, which co-ordinates development of the Action Plan for implementation of the Government Programme³⁸, monitors its implementation, and co-ordinates policy content by scrutinising draft RIAs and the quality of proposals of strategic documents and harmonisation between them³⁹; 3) the Republic Secretariat for Legislation (RSL), which ensures legal conformity; 4) the MoF, which ensures the affordability of policy proposals; and 5) the Serbian European Integration Office (SEIO), which is responsible for co-ordination of EI matters⁴⁰. Of these bodies, the PPS is the most recent, established in the spring of 2014⁴¹ after the general election and formation of the new Government. Its responsibilities were defined in the Law on Ministries and a Decision on Amendments to the Government's Rules of Procedure⁴². The revised RoP cover, *inter alia*, RIAs on draft legislation and policy proposals, and elaboration and monitoring of the Action Plan for implementation of the Government Programme⁴³.

³⁸ Conclusion of the Government 021-1599/2015 (27 February 2015).

³⁹ The PPS is also responsible for checking alignment of proposals with the strategic priorities of the Government, but the fulfilment of this function is only beginning, as the Action Plan for the implementation of the Government Programme that serves as the basis for this task has been just recently adopted. However, the PPS did extensive work to map and assess the current state of all strategies of Serbia, in terms of both quality and alignment between various planning documents.

⁴⁰ This assessment does not include a new initiative of the Government, the so-called Delivery Unit, because there was no information and experience on its role in policy-making process at the time of the assessment.

⁴¹ Official Gazette No. 44/2014, 26 April 2014.

⁴² Official Gazette No. 61/06 (edited text), 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14, 30 July 2014.

⁴³ The Action Plan. A new multi-annual central planning document to steer prioritisation and alignment of various planning documents, was adopted in February 2015. It covers actions over one year, but includes multi-annual objectives.

The functions of the CoG are clearly assigned to the above-mentioned bodies and their units under legislation⁴⁴, except for assessment of the policy content of proposals for Government sessions⁴⁵.

Staffing levels within CoG institutions are above minimum requirements⁴⁶, but actual staff complements of the Division for Planning and Co-ordination of Public Policies of the PPS (6) and the Department of Planning, Monitoring and Policy Co-ordination of the GSG (3) are close to the minimum level specified for the Principle, given the number of documents the Government regularly handles and the importance of these tasks (planning of policy priorities/Government Annual Working Plan [GAWP], scrutiny of policy/GAWP coherence, monitoring of sectoral policies/GAWP).

There was no evidence provided for the analysis that would serve as a basis to state that co-ordination of Government communications is carried out in practice by the relevant unit of the GSG. As a consequence of the lack of clarity on co-ordination of policy content and the lack of evidence on co-ordination of communication activities, the baseline value for the indicator on the extent to which critical CoG functions are fulfilled is 4.

With the exception of a comprehensive regulation covering co-ordination and scrutiny of policy content, all critical functions of the CoG are established. Expected level of fulfilment of the functions in terms of output and staffing is observed in all areas except co-ordination of communication activities. However, shortcomings are evident from an outcome perspective. These are analysed in detail under the Principles that follow.

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

Six key functions relate to EI: 1) overall daily co-ordination of EI; 2) planning of EI, including costing of reforms; 3) monitoring preparations for the EI process; 4) co-ordinating transposition of the *acquis*; 5) co-ordinating EU assistance; and 6) co-ordinating EI-related negotiations. The SEIO is positioned to fulfil all these EI-related functions, but co-ordination of EI-related negotiations is not yet required from Serbia given its stage in the integration process⁴⁷.

Legislation comprehensively addresses EI matters and clearly defines the roles and responsibilities of the main co-ordinating body (the SEIO) and the ministries with regard to EI⁴⁸. Separate secondary legislation covers daily implementation of the main EI functions (*acquis* transposition⁴⁹, preparation of negotiating positions⁵⁰, planning and monitoring of EI matters and EU funds).

The organisational structure and human capacities of the SEIO enable it to carry out all necessary tasks, but there are shortcomings related to planning of EI in terms of costing of reforms (a joint responsibility of the SEIO and the MoF).

⁴⁴ The Law on the Government, Official Gazette No. 55/05, 71/05, 101/07, 65/08, 16/11, 68/12, 72/12, 7/14; Rules of Procedure of the Government, Official Gazette No. 61/06 (revised text), 69/08, 88/09, 28/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14.

⁴⁵ The new Law on Government and the amended the RoP regulate the mandate of the PPS with regard to scrutinising RIAs for draft law and strategic policy proposals, an important step in terms of ensuring the quality of policy proposals. The legislation fell short of giving a full and comprehensive mandate to the PPS for analysing policy content of all documents, but the Rulebook on Internal Organisation and Systematisation of the PPS (17 November 2014) widens the mandate so that the PPS performs its scrutiny task more comprehensively.

⁴⁶ At least one full-time staff member is in place to handle the function, according to the Methodological Annex.

⁴⁷ The Screening Process of harmonisation needs of the country is based on the negotiation co-ordination structure, under the Conclusion on Guidance for State Administration Bodies in the Screening Process (September 2013).

⁴⁸ Law on the Government, Official Gazette No. 55/05, 71/05, 101/07, 65/08, 16/11, 68/12, 72/12, 7/14; Rules of Procedure of the Government, Official Gazette No. 61/06 (revised text), 69/08, 88 of 28/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14.

⁴⁹ Conclusion of the Government 011-4265/2013 (4 June 2013).

⁵⁰ Conclusion on Guidance and Coordination of the Activities of the State Administration Bodies in the Procedure of Preparing the Negotiating Positions in the Process of Negotiations on the Accession of the Republic of Serbia to the European Union (September 2013).

Interministerial co-ordination (through specific interministerial working groups and the Co-ordination Body for EU Accession process), mid-term planning, monitoring, reporting and training on EI matters and EU funds are all established and functional.

Given the above analysis, the baseline value for the indicator on fulfilment of EI functions by the institutions is 4.

The EI co-ordination functions are established, the necessary legal framework has been developed and the SEIO has the authority to carry out the functions assigned to it. Some challenges remain in regard to costing of reforms.

Key recommendations

Short-term (1-2 years)

- 1) The roles and responsibilities of the PPS and its integration in policy making procedures should be further strengthened in regulations and in practice, specifically in the area of assessment of policy content of a wider range of proposals for the Government sessions vis-à-vis strategic priorities of the Government.
- 2) The Government should strengthen the official position of the PPS, clarifying its right to block legislation from being placed on the Government's agenda where the RIA is of insufficient quality. This strengthened role for the PPS should be enshrined in the RoP for the Government.
- 3) Given the importance of planning and monitoring the workload of the Government, staff capacities of the GSG and the PPS should be reviewed and strengthened as necessary to deal with the large amount of documents the Government is working on.

Medium-term (3-5 years)

- 4) The structures for co-ordination of EI-related negotiations should be activated in alignment with the pace of the negotiation process.

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

Baseline values

Six indicators are used to measure whether policy planning is harmonised. They cover: the annual backlog of implementation of planned commitments; the annual backlog in developing sector strategies; the link between funds estimated in sector strategies and those taken up in the medium-term budgetary framework (MTBF); the completeness of financial estimates; the annual backlog of EI-related commitments; and the extent to which achieved outcomes are reported.

In Serbia, medium-term planning for the EI process exists for finances⁵¹ and within some sectors⁵² but not for the Government's work as a whole. Medium-term planning lacks a comprehensive approach and clear alignment of medium-term policy documents with fiscal strategy. Reporting is not in place for all medium-term documents and, where reports are published, they lack information on the outcomes achieved.

⁵¹ The Fiscal Strategy 2015-17 is an economic/fiscal policy document. The lowest abstraction is at ministerial level, so programmes and major investments cannot be identified.

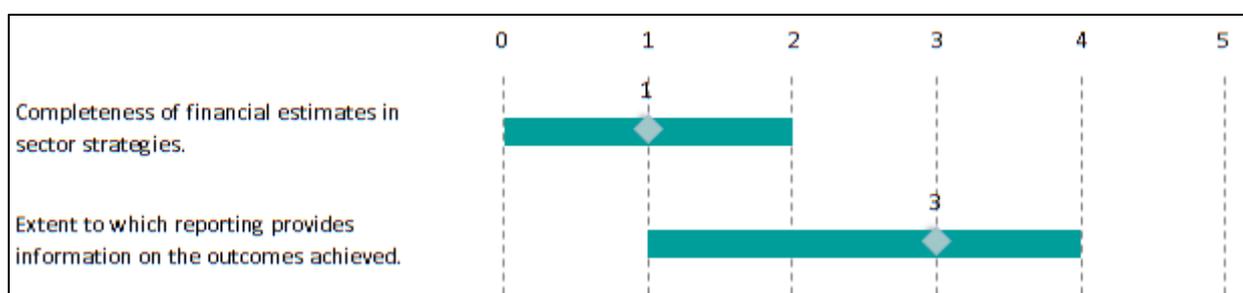
⁵² Assessed on the basis of a sample of the five most recent sectoral strategies: Strategy against Money-Laundering, Strategy of Waterway Transport Development, Strategy against Drug Abuse, Strategy for Sports Development, and Strategy for Development of Agricultural Statistics.

Serbia
Policy Development and Co-ordination

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Completeness of financial estimates in sector strategies ⁵³ .	2014	1
	5	Extent to which reporting provides information on the outcomes achieved.	2014	3
Quantitative	3	Annual implementation backlog of planned commitments in the central planning document(s).	2014	49%
	3	Annual backlog in developing sector strategies.	2013	31%
	3	Ratio between total funds estimated in the sector strategies and total funding identified for corresponding sectors within the MTBF ⁵⁴ .	2014	0%
	4	Annual implementation backlog of EI-related commitments.	2013	32%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 2. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: Harmonised medium-term policy planning, with clear whole-of-government objectives, exists 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 (MTBF).

⁵³ A sample of five recently adopted sector strategies is used.

⁵⁴ The ratio is calculated as a percentage (0% for minimum concurrence and 100% for maximum concurrence), illustrating the difference in planned funding in the last five strategies adopted and the MTBF. The outcome value of the indicator is the average of the five cases. In the event, as it is not possible to make the calculation due to a lack of financial data in the MTBF and/or in all or some sector strategies, the ratio is determined as 0%.

Serbia
Policy Development and Co-ordination

Central planning documents in Serbia include the Prime Minister's exposé (Government Programme), the recently adopted Action Plan for the implementation of the Government Programme⁵⁵ the GAWP, the National Plan for the Adoption of the *Acquis* (NPAA), and the Fiscal Strategy.

Regulation is in place for the development of the GAWP, the Action Plan for the implementation of the Government Programme, the NPAA, and the Fiscal Strategy⁵⁶. The delegation of responsibilities for policy planning to CoG bodies (GSG, PPS, SEIO and MoF) is stipulated in the Regulation, although the RoP do not clarify assignment of the task of co-ordinating alignment between the various planning activities. Monitoring of implementation is regulated for the GAWP, the Action Plan for the implementation of the Government Programme and the NPAA, but not for the Fiscal Strategy. There is no unified regulation which sets out requirements for the form, content and development process of sectoral strategies or for monitoring them.

The GAWP is the overarching annual Government planning document. It is developed using a bottom-up process with no prioritisation and no role for the GSG in screening proposals from ministries and other bodies. At roughly 700 pages, the GAWP includes legislative activities, programmes and projects, with financial estimates. While the document provides detailed information about planned activities, it fails to support planning of the workload and resources of ministries and the Government⁵⁷, as evidenced by a 50% annual backlog of planned commitments. Elaboration of the Action Plan for the implementation of the Government Programme was a top-down process, where the PPS translated the Government Programme into priorities and actions and sent its proposals to the ministries for opinions before adoption by the Government⁵⁸.

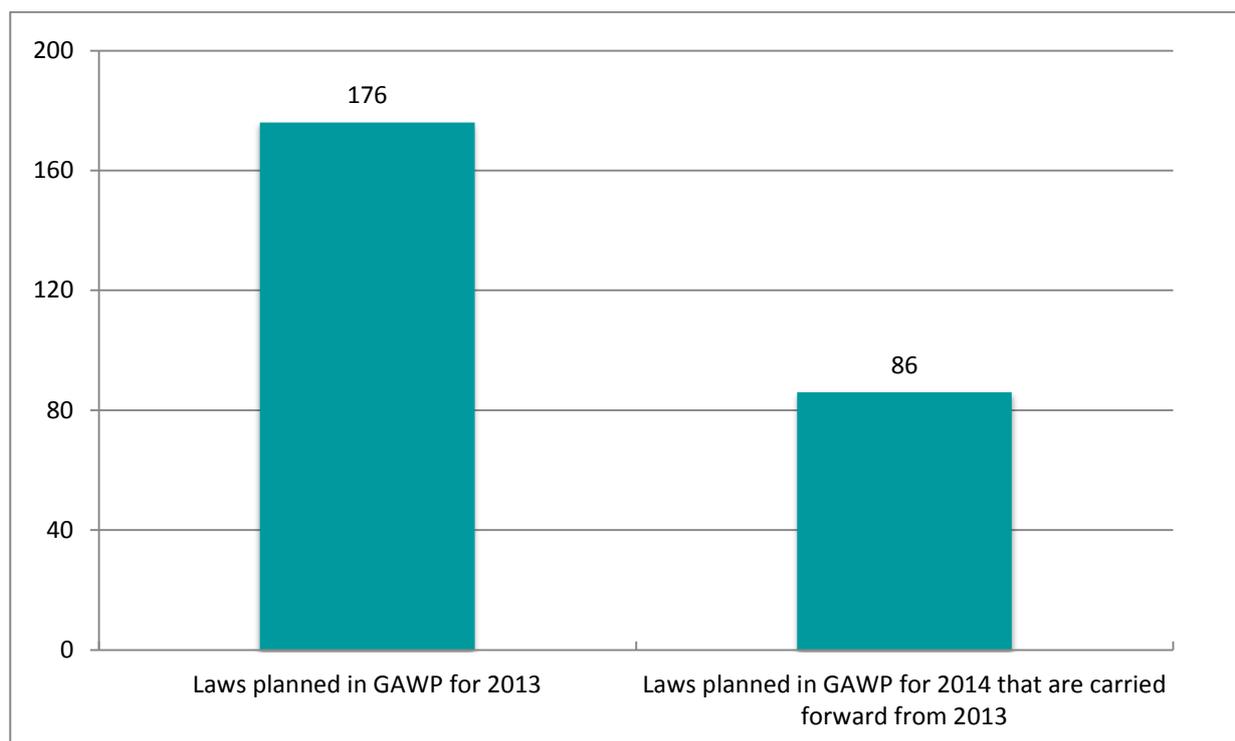
⁵⁵ Action Plan for the implementation of the Government Programme adopted by Resolution of the Government No. 021-1599 / 27 February 2015. Although the plan is to develop a multi-annual prioritisation of the Government Programme, this document is currently only an annual translation of Government priorities into activities, which contains multi-annual objectives.

⁵⁶ The Law on Government, the RoP by-laws and instructions constitute the legal framework. However, as per the Action Plan of the Government, only the RoP stipulate the task. At the time of the analysis, detailed guidelines had not been developed for this task.

⁵⁷ Shortcomings were also acknowledged by the GSG.

⁵⁸ According to staff of the PPS, development of this document was an open, iterative process. The Action Plan for the implementation of the Government Programme was drafted jointly with line ministries on the basis of the strategic priorities stated in the ministries' strategic documents and checking if these priorities were in line with the main objectives of the Government Programme. Once the draft was produced on the basis of this joint effort, it was sent to line ministries for a second round of consultations. After that, the final Action Plan for the implementation of the Government Programme was produced.

Figure 3. Number of all planned laws and planned laws that were not delivered and carried forward to the next year by the Government



Source: Government Annual Working Plan 2013; Government Annual Working Plan 2014.

Co-ordination of medium-term planning is not regulated, including for decisions around the adoption of sectoral strategies⁵⁹. Because of this, ministries are free to independently propose and plan their strategic work. The annual backlog in developing sectoral strategies was above 30% between 2013 and 2014⁶⁰ and, as indicated in an analysis carried out by the PPS, Serbia has more than 110 strategies in force.

While formal requirements for financial estimates exist (generally through RIAs and specifically for all EI matters, as well as through a recent by-law of the MoF⁶¹), sectoral strategies generally do not include costing. Assessment of consistency with the medium-term budgetary framework is also hampered by the fact that the Fiscal Strategy covers ministries, but not strategic initiatives and programmes.

Given the factors mentioned above, the baseline value for the indicator on completeness of financial estimates in sector strategies is 1.

Medium-term planning exists for the EI process, for finances and within some sectors, but it is not fully in place for the Government's work as a whole. Medium-term planning lacks a comprehensive approach and clear alignment of medium-term policy documents with fiscal strategy. The GAWP is developed from bottom-up without any prioritisation. The backlog in implementation is 50%. Costing of policies is insufficient, as the requirement to assess costs is generally not applied to strategies.

⁵⁹ The PPS only partially has this role on the basis of the RoP.

⁶⁰ Based on the list of planned sector strategies and action plans provided by the Ministry of Public Administration and Local Self-Government (MPALSG).

⁶¹ By-law on the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget (110-00-171/2015-03, 31 March, 2015). The by-law and its corresponding instruction give a comprehensive regulatory framework for financial impact estimations of all new policy proposals.

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

The SEIO has established a medium-term planning and monitoring system for Serbia's EI preparations. It facilitates planning and monitoring of all EI-related commitments on a consistent basis, both in the area of the country's preparations for the EI process (NPAA) and the co-ordinated use of EU assistance (Instrument for Pre-accession Assistance [IPA] programming documents).

Guidelines are at the disposal of line ministries for each type of planning process.

As the key EI-related mid-term planning document, the NPAA, is aligned with the GAWP. While the NPAA also indicates priorities for all policy areas, challenges remain in costing of reforms and fiscal alignment of planning documents because individual actions are not costed.

The annual implementation backlog of EI related commitments is 32%, one-third of planned activities for 2013 that were not delivered and needed replanning for 2014.

The EI planning and monitoring system is in place and is linked with the GAWP. The NPAA is a comprehensive prioritised document, but it does not address costing at the level of activities.

Principle 5: Regular monitoring of the Government's performance enables public scrutiny and ensures that the Government is able to achieve its objectives.

The Law on Government obliges the Government to inform the public about its work⁶². The RoP introduced a requirement to monitor the work of the Government and to prepare periodic reports⁶³ to inform the public about Government decisions.

Monitoring of the Government's performance is achieved through annual reports prepared by the GSG and submitted to the Parliament. Annual monitoring and reporting on GAWP is a bottom-up process, based on self-declaration by ministries on progress with implementation. Monitoring of achievement of the Government's strategic priorities is not yet in place, as the document serving as a basis for it was just recently adopted⁶⁴. Monitoring and reporting of implementation of EI commitments is more robust and frequent, with reports prepared quarterly on NPAA and IPA matters. In addition, an early warning system has been established for NPAA, which flags delays for line ministries. On the basis of the sample received from the Serbian authorities, it can be stated that monitoring of sectoral strategies is not regularly carried out.

Annual reports on the Government's performance (GAWP monitoring report, NPAA reports, information on execution of the budget and reports of ministries) are publicly available on the General Secretariat's website and those of the ministries concerned. Parliamentary scrutiny is also ensured. When reports on strategies are developed, they are also made public⁶⁵. However, with the exception of one sample strategy report⁶⁶, none of the reports on Government performance include information about achievement of results measured against policy objectives, other than fulfilment of specific tasks.

The baseline value for the indicator on the extent to which reporting provides information on the outcomes achieved is 3. This reflects the low level of reporting that the Government publishes on outcomes achieved, other than outputs.

The legislative framework for monitoring and reporting on Government performance is in place. Reports on annual plans are regularly developed and shared with the public. However, reports on the Government's performance do not cover the achievements against policy objectives, but rather

⁶² The Law on Government, Article 9.

⁶³ The RoP Article 79.

⁶⁴ The Action Plan for the implementation of the Government Programme was adopted late February, 2015.

⁶⁵ Based on the sample provided by the MPALSG.

⁶⁶ Second National Report on Social Inclusion.

present only the outputs of the Government's work. Regular reporting on implementation of developed strategies is not ensured.

Key recommendations

Short-term (1-2 years)

- 1) A multi-annual Action Plan on the Government programme should be used to reinforce mid-term planning. Unified rules and guidelines should be drawn up for ministries on sectoral strategy development and implementation monitoring. These should include parameters for form and content and a requirement for costing of activities. The role and responsibilities of the PPS, as well as its capacities, should be enhanced for steering this process.
- 2) Annual planning of the Government's work should be streamlined to allow for prioritisation and screening of bottom-up proposals from administrative bodies, on the basis of priorities and resources (capacities and financial limits) of the administration.
- 3) The costing of EI-related activities on action level should be introduced and included in the revision of the NPAA.
- 4) The monitoring of implementation at Government level should be put on a new basis, allowing for close tracking of implementation of the Government's initiatives and the GAWP. This will facilitate timely intervention in case of deviations (the experience of the SEIO can be adapted).

Medium-term (3-5 years)

- 5) The number of sectoral strategies should be reduced by establishing a well-structured system of strategies.
- 6) A full alignment between medium-term plans and medium-term financial limits should be developed through a fiscal plan which allows for allocations at both ministerial and programme level.
- 7) Monitoring of central planning documents should also include information about the achievements against set policy objectives.

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

Baseline values

Assessing whether government decisions and legislation are transparent, legally compliant, accessible to the public and scrutinised by parliament is measured based on six indicators distributed over two Principles. The indicators cover: the ratio of regular agenda items submitted on time for government sessions; the transparency of government policy making; the number of laws with court rulings against the government in a given year; the ratio of laws initiated by the government and approved by parliament within a year; the extent to which a forward planning mechanism exists between the government and parliament; and the number of law or sectoral policy implementation reports discussed in parliament.

The Government decision making process broadly follows the procedures, and there is also co-operation between the Government and the Assembly, illustrated by a mid-range value on forward planning and the fact that 89% of the laws sponsored by the Government were adopted by the Parliament within a year of submission. The Assembly also has a role in scrutinising the effects of

Serbia
Policy Development and Co-ordination

legislation and policy making, but its role is not comprehensive, as implementation of legislation is only discussed if amendments occur⁶⁷.

	Principle no.	Indicator	Baseline year	Baseline value
Quantitative	6	Ratio of regular agenda items submitted on time ⁶⁸ by ministries to the Government session.	2014	Not available ⁶⁹
	6	Transparency of Government policy making ⁷⁰ .	2014	3.6
	6	Number of laws with court rulings ⁷¹ against the Government during the year.	2014	9
	7	Ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission.	2014	89%
	7	Extent to which forward planning mechanisms between the Government and the Parliament exist ⁷² .	2014	3
	7	Number of law implementation reports discussed in the Parliament.	2014	3

Analysis of Principles

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

The legal framework set by the Government’s RoP establishes procedures for preparation, follow-up and communication on Government sessions. However, the Government’s RoP do not set clear deadlines for the preparatory process⁷³, and no indication is given as to how far in advance of the Government session draft acts should be presented. The Prime Minister convenes sessions in writing at one day’s notice, including a draft agenda and the material to be discussed.

The RoP list all institutions which should review material submitted to the Government. The RSL and MoF are to give an opinion on all draft laws, regulations and other acts. The opinion of the SEIO is required for all proposed laws. The opinion of the PPS is required for all draft laws where a RIA should be developed and for draft strategic policy proposals while they are in the process of preparation for the Government sessions. The GSG checks if proposals were delivered according to the requirements

⁶⁷ Serbia provided 53 reports of independent state authorities and 9 quarterly reports of ministries, but no report on implementation of main laws or sector strategies.

⁶⁸ “On time” is understood as being within the procedural criteria set by regulation(s).

⁶⁹ No information was provided for the analysis since this information is not collected in a systematic way and there are no set deadlines for submitting proposals before Government sessions.

⁷⁰ World Economic Forum, Competitiveness Index, minimum score of 1, maximum score of 7.

⁷¹ By the Constitutional Court.

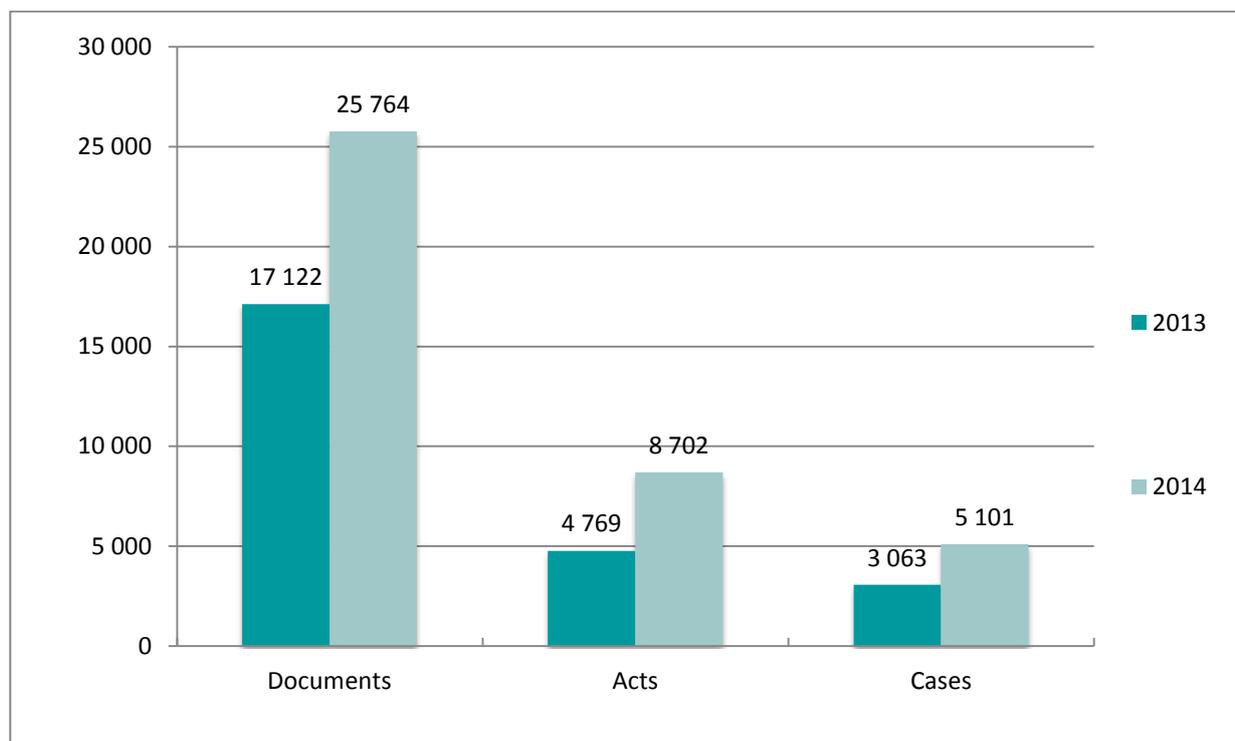
⁷² Its value is based on the SEE2020 indicator on “forward-planning mechanisms between Government and national as well as sub-national parliaments”.

⁷³ However, for obtaining opinions from institutions, 20 days are set as a minimum.

Serbia
Policy Development and Co-ordination

of the RoP. According to the GSG, in the last quarter of 2014, 25 764 documents, 8 702 acts and 5 101 cases were sent to the Government (roughly one-third more than one year before). The GSG does not have records on how many of these proposals were sent back to the proposing authorities. Based on information provided for the analysis, it can be concluded that the legal quality of the proposals is thoroughly scrutinised but the same rigour is not applied to affordability or alignment with Government priorities and other policies.

Figure 4. Number of items submitted to the General Secretariat of the Government of the Republic of Serbia at the end of the fourth quarter, 2013 and 2014



Source: The General Secretariat of the Government.

The quality of the Government's legislation can be measured by the number of laws with court rulings against the Government during the year. In Serbia, the Constitutional Court declared nine laws initiated by the Government unconstitutional in 2014. The figures for this indicator were 18 for 2012 and 18 for 2013. Though it is too early to say whether or not this decrease is a trend, the fact that the number of annulled laws is below 10% compared to the number of annually adopted laws is a good indication that the quality of legislation on the level of primary laws is sufficient.

Agendas for Government sessions are not made public. Decision records are kept on Government sessions, but they are confidential. Government decisions are made public through the Official Gazette and the Government's website. The GSG manages communications with the public in relation to the Government's objectives, key decisions and performance. Annual reports on the Government's performance (GAWP monitoring report and reports of ministries) are publicly available on the General Secretariat's website and those of the ministries concerned. The "Transparency of Government policy making" indicator of the Competitiveness Index of the World Economic Forum reflects the ease with which businesses can obtain information about changes in Government policies and regulations which affect their activities. On a scale of 7, Serbia was rated at 3.6, ranking 108 out of 144 countries.

While the formal processes for preparation of Government decisions are in place and well known to all stakeholders, the timeframe for preparation before a Government decision is not regulated. The procedure for checking legislation is clear and applied. However, the number of items which require checking exceeds 25 000 in one-quarter of the year, and impacts (fiscal and alignment with policy

directions) are scrutinised for only a small proportion of cases, when required by regulation. Information on the agenda of formal Government sessions is not publicly available.

Principle 7: The Parliament scrutinises government policy making.

Relations between the Government and the Parliament are regulated by detailed procedures set out in the RoP for the Government⁷⁴ and the RoP for the Parliament⁷⁵.

The majority of the legislation discussed by the Parliament (around 90%, as estimated by officials of the Parliament) is initiated by the Government and other authorised proposers (e.g. National Bank, Ombudsperson). The only specific forward-looking planning tools in place between the Government and the Parliament are the Annual Working Plan of the Government, which contains the Government's Legislative Plan by month, and the NPAA, which lists all envisaged legislative activities related to EI. Nevertheless, according to officials of the Parliament, the sequence of draft laws sent to the Parliament by the Government can vary significantly from the order set out in the Government's Legislative Plan. The decision has been made to introduce a quarterly update of the Legislative Plan, but it has not yet come into effect.

The National Assembly's Committee on Constitutional and Legislative Issues is responsible for oversight of the Government's legislative activity on the basis of the methodology for drafting legislation⁷⁶. The Committee meets about 100 times per year and discusses 150-180 draft laws and other general acts stemming from the Government⁷⁷. This indicates that the Parliament fulfils an important role in safeguarding the quality of legislative drafting in Serbia.

The ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission is 89%.

The quarterly reports of ministries and reports of independent state authorities are discussed by the Committees of the Parliament, but implementation reports for major laws or strategies are rarely discussed. In 2014, only three such implementation reports were discussed, with conclusions adopted in the National Assembly⁷⁸.

Ministers are expected to attend discussions in the Parliament on issues which fall under their remit. In 2014, ministers attended 25 out of 32 sessions of the National Assembly⁷⁹.

Procedures for scrutiny of legislation in the Assembly are well defined. While forward-planning on the Government's legislative programme with the Parliament is ensured on an annual basis, actual practice differs from the plan to a significant extent. Parliament scrutinises the quality of legislation, but its scrutiny of the implementation of laws is very limited.

Key recommendations

Short-term (1-2 years)

- 1) The RoP should be amended to clarify the timeframe for the process of preparation of proposals for deliberation by the Government.

⁷⁴ The RoP of the Government - IV.: Relations between the Government and other authorities, Relationship between Government and the National Assembly.

⁷⁵ The RoP of the National Assembly - XV.: Relations between the National Assembly and the Government, Official Gazette 28 July 2010.

⁷⁶ Unified drafting methodology rules, Official Gazette 21/2010.

⁷⁷ Unified drafting methodology rules, Official Gazette 21/2010.

⁷⁸ Conclusion concerning consideration of 2013 Report on implementation of the Law on Free Access to Information of Public importance and the Law on Personal Data Protection; Conclusion concerning consideration of 2013 Report on the activities of anti-corruption agency, with the report on the implementation of the 2013-18 National anti-corruption strategy and its implementation Action plan; Conclusion concerning consideration of 2013 Report on the work of National preventive mechanism.

⁷⁹ Data provided by the National Assembly.

- 2) All proposals should be comprehensively scrutinised from the perspective of affordability and policy alignment. This should be enforced by further regulation and additional resources, if necessary.
- 3) Agendas of formal Government sessions should be made public in advance.
- 4) The envisaged quarterly rolling revision of legislative plans between the Government and the Parliament should be put in place.

Medium-term (3-5 years)

- 5) The GSG should exercise its right to reject proposals if authorities do not follow all requirements for preparation. The review of the GSG should also include alignment with the GAWP.
- 6) The number of items submitted for consideration by the Government should be streamlined to allow adequate scrutiny and prioritisation for best use of Government time.
- 7) Parliament should exercise its right to scrutinise the Government's work through discussion of implementation experience for major laws.

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

Baseline values

Assessing whether policy and legislative development are inclusive and evidence-based, and thus achieve the intended goals, is based on ten indicators. These cover the extent to which ministries are oriented towards policy development; the backlog of transposition; the number of annually transposed directives; the extent to which policy development makes best use of analytical tools; the extent to which public consultation is used; the extent to which the interministerial consultation process occurs; the ratio of staff participating in legal drafting training; the number of laws annulled due to legal inconsistency or unconstitutionality; the number of laws sent back to the Government by the Parliament; and the extent to which legislation is made publicly available. Precise methodology and scales for these indicators can be found in the methodological annex.

In Serbia, the basic foundations for evidence-based and inclusive policy development are established. However, challenges remain with regard to implementing clear procedures within the ministries, and between the administration and stakeholders, and with regard to interministerial consultation. This has led to shortcomings in translating policy development structures and procedures into high-quality policy and legislative proposals.

Serbia
Policy Development and Co-ordination

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which ministries are oriented towards policy development.	2014	3
	10	Extent to which policy development process makes the best use of analytical tools.	2014	3
	11	Extent to which public consultation is used in developing policies and legislation.	2014	3
	11	Extent to which the interministerial consultation process occurs.	2014	2
	12	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2014	4
Quantitative	9	Backlog of transposition ⁸⁰ .	2014	Not available ⁸¹
	9	Number of annually transposed directives.	2014	Not available ⁸²
	12	Ratio ⁸³ of staff participating in legal drafting training or mentoring over the past year.	2014	Not available ⁸⁴
	12	Number of laws annulled on the basis of legal inconsistency or unconstitutionality in a given year.	2014	9
	12	Number of laws sent back to the Government by the Parliament.	2014	Not available ⁸⁵

⁸⁰ Backlog is analysed as the comparison of documents consisting of commitments (GAWP, EI plan) from two consecutive years, taking into account items carried forward from one year to the other.

⁸¹ The country's EI planning does not include information on transpositions on the level of Directives.

⁸² The country's EI planning does not include information on transpositions on the level of Directives.

⁸³ The ratio is calculated on the number of staff trained against the total number of ministerial staff dealing with legislative drafting.

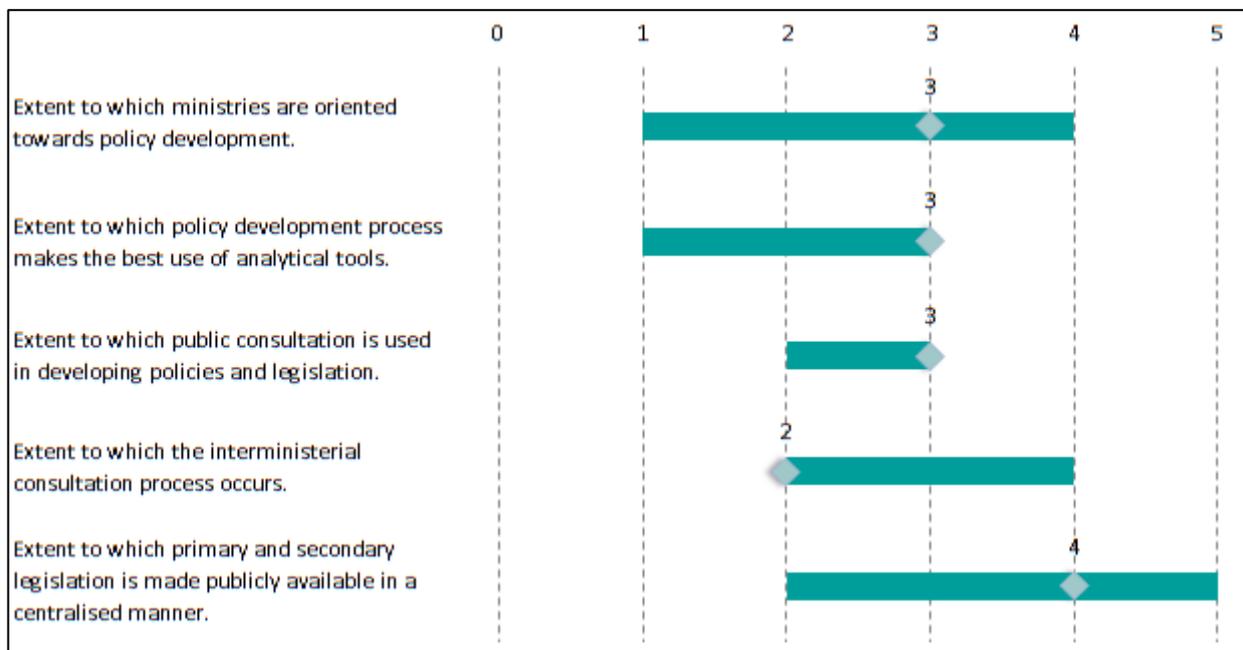
⁸⁴ No information was provided for the analysis by the country and there is no unified HRMIS providing the numbers of ministerial policy development staff.

⁸⁵ No information was provided for the analysis by the administration.

Serbia
Policy Development and Co-ordination

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 5. Country baseline value in comparison with the regional range



Analysis of Principles

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

Serbia has 16 ministries and 2 ministers without portfolio. The structures and tasks of the ministries are established through the Law on Ministries⁸⁶, which defines policy responsibilities of the ministries. This Law is supported by rulebooks on the internal organisation and structure of ministries. The policy development process in Serbia involves policy units preparing legislative files and legal units transforming policy and legislative demands into actual legislative proposals. As a general rule, responsibility for policy development is not transferred to subordinate bodies.

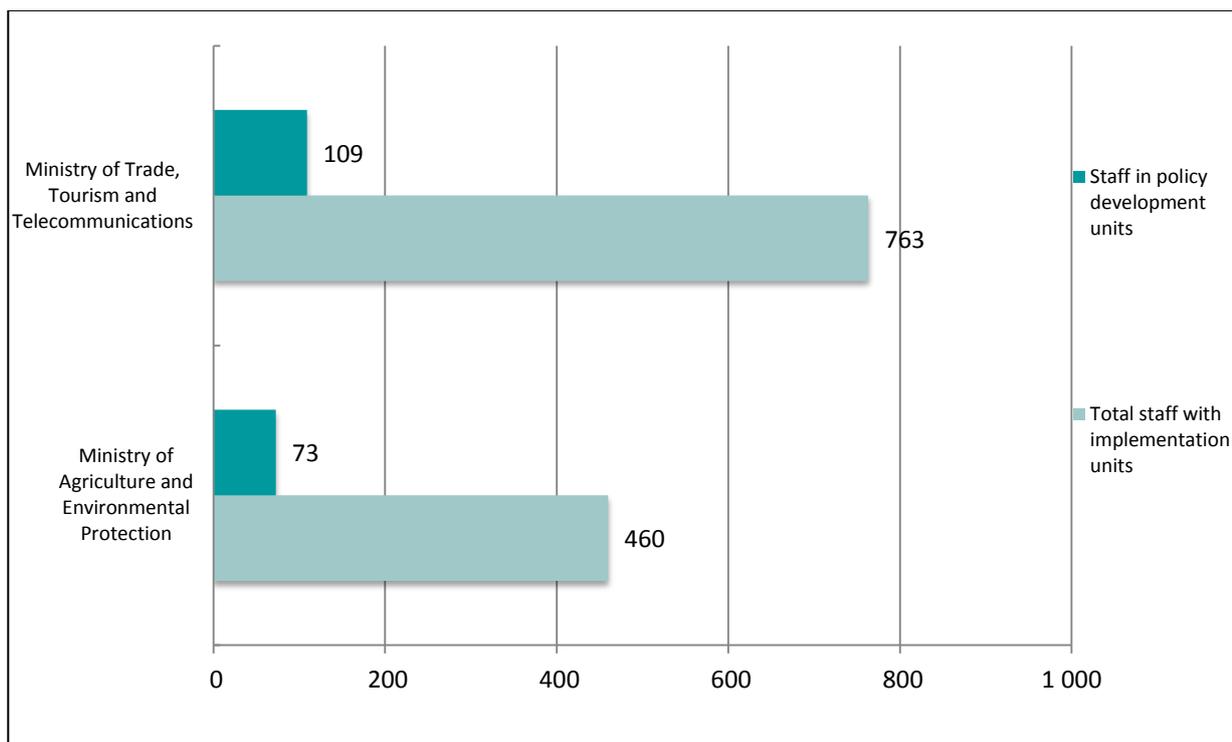
In terms of the requirements for a well-established internal structure and regulatory framework for policy development in ministries, Serbia has only three of the required five elements⁸⁷ in place. There are no internal rules that regulate, in detail, the procedures and processes of policy development and legal drafting within the ministries, and the number of staff dealing with policy development is less than 30% of all staff of the ministries⁸⁸. In Serbia, big inspection and implementation departments are parts of the ministerial structure.

⁸⁶ The Law on Ministries, Official Gazette No. 44/2014.

⁸⁷ See the Methodological Annex.

⁸⁸ Based on the calculation of staff working on policy development in the MTTT (14% of total staff) and the MAEP (16% of total staff).

Figure 6. Staff allocated to policy development in sample ministries



Source: Ministry of Trade, Tourism, and Telecommunications (MTTT); Ministry of Agriculture and Environmental Protection (MAEP).

Due to the factors analysed above, Serbia has a value of 3 for the indicator that measures the extent to which ministries are oriented towards policy development.

The overall challenge for Serbia lies in the administration's capacity to develop high-quality policies and legislation and its capacity to implement the EU *acquis* properly and effectively. These issues are covered under the three Principles that follow.

Ministries have well defined organisational structures with clearly attributed policy responsibilities. The overall system for policy development is supported by appropriate rules, but these rules are not translated into specific procedures within the ministries, and the ratio of staff dealing with policy development in ministries is low, as big implementation and inspection units are parts of the ministerial organisations.

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 *acquis*.

The EI framework and the roles and responsibilities of the different actors are defined. The legislative framework establishes rules for transposition of the *acquis*, including authority for quality control and supervision by the SEIO along with specific requirements for ministries in the transposition process⁸⁹. The responsibility for transposition of the *acquis* falls under the remit of the SEIO. The SEIO and the Legislative Secretariat both play a role in guaranteeing that the *acquis* is transposed properly⁹⁰. Procedures are embedded within the RoP and specific rules on transposition requirements⁹¹.

⁸⁹ Decision of the Government of the Republic of Serbia on the establishment of the European Integration Office (Official Gazette, Nos. 75/05, 63/06, 126/07, 117/08, 42/10, 48/10 and 106/12). Finding is further based on information provided by the administrations and interviews.

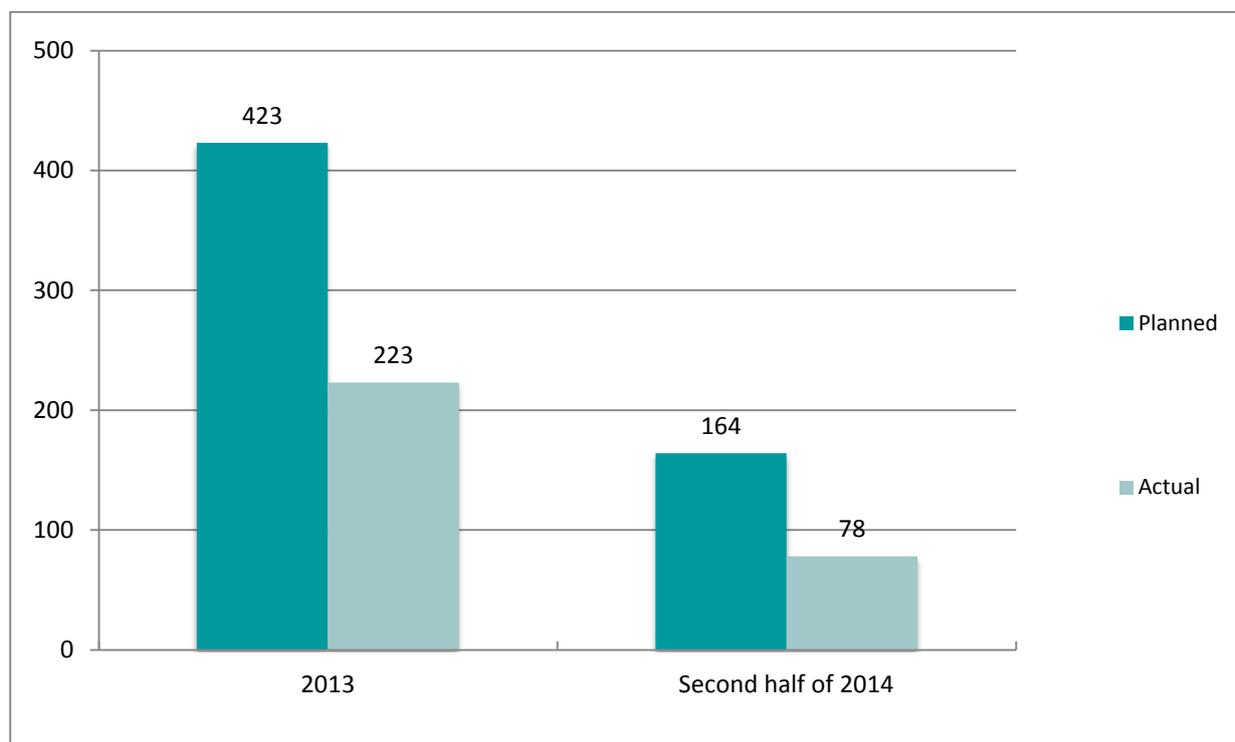
⁹⁰ While the SEIO checks the quality of fulfilment of tables of concordance and overall alignment with EI, the Legislative Secretariat checks the general conformity with the legal system and the Constitution.

⁹¹ See also Article 46 of the Government RoP and the Instructions for Filling in the Tables on Compliance of Regulations.

Tables of concordance facilitate monitoring and quality control by the SEIO, which provides its opinion on transposition cases and has the authority to make changes or reject the draft submitted by the responsible ministry⁹². The decision making process for transposition cases follows the same procedure as for national legislative proposals. The impact of EU transpositions is not properly costed⁹³.

It was not possible to establish a value for the indicator representing the annual implementation backlog of EI related commitments or to assess the number of directives transposed annually. No overview was provided with regards to the number of transposed directives. The NPAA monitoring report, adopted in 2014, foresees that Serbia will monitor the number of national laws that must be developed for the transposition of the *acquis*. For the third and fourth quarter of 2014, the NPAA had anticipated the adoption of 164 national regulations in relation to the *acquis* transposition, but only 78 regulations were actually adopted. This represents a delay of 52% in adoption of national legislation⁹⁴.

Figure 7. Number of planned and adopted regulations related to EI in 2013 and in the second half of 2014



Source: Serbian European Integration Office.

The EI process is defined, responsibilities have been assigned, and the process is well embedded into the overall policy development system. The impacts of EU transpositions are not costed. The NPAA only monitors implementation of national laws with regard to transposition of the *acquis*. No data is available on planned and actually transposed directives. Delay in adoption of EI-related national regulation is above 50%.

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

The RoP define the steps which must be followed when proposals are being sent for approval at the Government Session. Draft decisions submitted by a ministry to the Government should be

⁹² Interviews and information submitted by the Serbian administration indicated that this right has not been applied yet, since there was no reason to reject the proposal on this basis.

⁹³ Conclusions based on interviews and the analysis of three transposition cases: 1) The Law on Copyright and Related Rights; 2) The Law on Cable Cars; and 3) The Rulebook on Textile and Rulebook on Shoes.

⁹⁴ Findings based on information provided by the SEIO.

Serbia
Policy Development and Co-ordination

accompanied by a rationale explaining the need and justification for the proposal. Ministries also need to provide replies to a set of questions on the impact of the proposal⁹⁵.

The RSL, the MoF and the SEIO are entrusted with a horizontal role of checking issues of legality, fiscal impacts and compliance with the *acquis* respectively. The PPS provides an opinion on the quality of every RIA, assessing whether or not the RIA is complete⁹⁶. The opinions of the PPS are published on its website, along with the proposal and associated impact analysis. Responsibilities in the policy development process have been assigned and are executed, with the exception of the responsibility for training ministry officials on making Fiscal Impact Assessments.

Ex ante RIA exists and has established procedures. However, based on a review of six sample cases⁹⁷, the analysis is not comprehensive, as not all impacts are properly addressed. For each proposal, only one policy option is provided, and costing of the identified impacts is largely absent⁹⁸. Approaches to evaluating progress and the identification of potential obstacles to successful implementation are not properly identified, and the overall quality of the *ex ante* analysis is poor. The Parliament's RoP require the submission of a RIA with each draft proposal for further deliberations⁹⁹, but the Government does not submit RIAs for its draft proposals to the Parliament¹⁰⁰. Due to these factors, the baseline value for the indicator on the extent to which the policy development process makes the best use of analytical tools is 3.

⁹⁵ See also Articles 39 and 40 of the Government RoP.

⁹⁶ In 2014, PPS reviewed 134 proposals. In half of the cases, it was agreed that a RIA was not needed due to the nature of the draft (international treaties and financial agreements), while only one-third of the remaining 65 drafts contained a full RIA on the basis of PPS's assessment. In the same year, the Government adopted 172 draft laws; of these PPS was not asked for an opinion in 58 cases.

⁹⁷ Conclusion is based on the analysis of the following proposals for laws or amending laws: 1) Law on Legal Protection of Industrial Design; 2) Law on Nationality and Registration of Vessels; 3) Law on Maritime Navigation; 4) Law on Fire Protection; 5) Law on Excise Duty; and 6) Law on the Development Fund.

⁹⁸ It is particularly interesting that the MoF, the body responsible for scrutiny of fiscal impact assessment, does not provide cost and fiscal impact estimation for its draft Law on Excise Duty.

⁹⁹ See also Article 151 of the RoP of the National Assembly.

¹⁰⁰ The conclusion is based on interviews with Parliament officials.

Figure 8. Analysis of drafts by the Public Policy Secretariat of the Republic of Serbia in 2013 and 2014



Source: Policy Secretariat of the Republic of Serbia.

While Serbia develops Regulatory Impact Assessments for draft proposals, the quality of analysis in these assessments is poor. The quality of the drafts is routinely scrutinised, and the opinions of the PPS, together with the proposals and their RIAs are also published. However, the opinion of the PPS is not always requested before a Government decision.

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

The need for consultation with external stakeholders is enshrined in the RoP and expressed in various guidelines¹⁰¹. Public debates must be conducted for draft proposals which would change legal matters significantly or when the public has a significant interest in the topic of the Law¹⁰². Public debates conducted by the ministries are published on their websites and on the e-government portal. Debates are usually held at the end of the development process for legislation and policies.

Public consultation is defined in rules, but its scope is limited to public debate and co-operation with some stakeholders through Working Groups, which play an important role in developing proposals. While the outcome of these consultations should be included in drafts when submitted for adoption, information on these outcomes is often lacking. Public consultation is not conducted on all laws for which it should be done.

The RoP stress the need to obtain opinions through interministerial consultation. This consultation is well-embedded as a procedure within the Serbian administration and happens routinely. While the RSL and the MoF must be consulted on all documents, the SEIO must be consulted on any proposed law. Other state administration bodies must be consulted when the subject matter of a draft act touches upon their competence¹⁰³. However, many items are submitted for the Government's agenda with

¹⁰¹ Handbook for RIA and Guidelines for the involvement of civil society in the process of adoption of regulations, 26 August 2014.

¹⁰² See also Article 41 of the Government RoP.

¹⁰³ See also Article 46 of the Government RoP.

consultation deadlines shorter than foreseen in the RoP¹⁰⁴, and there is no evidence in the sample legislation analysed that responses to objections on obtained opinions were provided to the Government in a structured way. The RoP stipulate that a series of committees should act as filtering bodies before the session of the Government, but no conflict resolution mechanism exists on a high administrative level. This hinders effective conflict resolution within the administration, since no CoG institution has the role of ensuring effective conflict resolution after the interministerial consultation process has highlighted substantial differences between ministries¹⁰⁵.

On the basis of the analysis above¹⁰⁶, the baseline value for the indicator on the extent to which public consultation is used in developing policies and legislation is 3, while the baseline value for the indicator on the extent to which the interministerial consultation process occurs is 2.

The RoP establish the rules for public consultation and interministerial consultation. Public consultation is limited in scope and not always applied, and information on the outcome of consultation is not always provided to decision makers. Interministerial consultation lacks respect for deadlines, and information on opinions and reasoning for rejected items is not provided to the Government. There is no high-level administrative mechanism for resolving conflicts between ministries.

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

Serbia works with detailed guidelines on how to structure and formulate legislation¹⁰⁷. The legislative drafting methodology sets out in detail how a law should be structured¹⁰⁸.

Serbia has a clear procedure for the RSL in checking the quality of legislation. The RSL scrutinises all draft laws before they are placed on the agenda for adoption by the Government. The quality assurance process for the legal conformity of draft laws is well embedded in the policy development process.

The indicator for measuring the ratio of staff participating in legal drafting training or mentoring over the past year could not be assessed, as there is no unified number of the total staff of ministries dealing with legislative drafting. The number of staff trained on legal drafting was 333 in 2014, double the number of staff trained in 2013. This demonstrates increased level of attention to improving the quality of legislative drafting.

¹⁰⁴ This finding is based on interviews.

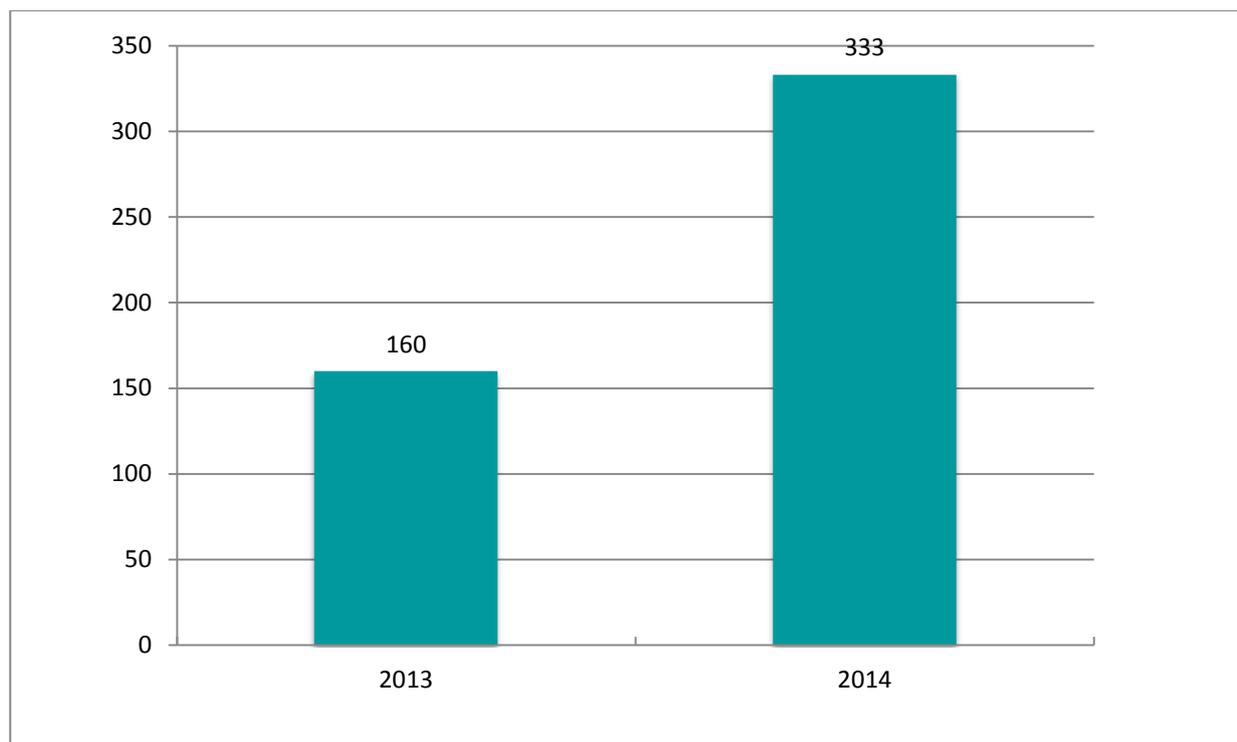
¹⁰⁵ This finding is based on interviews.

¹⁰⁶ Conclusions are based on the analysis of legislative proposals that were examined under Principle 10.

¹⁰⁷ Unified drafting methodology rules, Official Gazette No. 21/2010. See also a conclusion and methodology for drafting by-laws, 14 October 2010.

¹⁰⁸ Clarity in the rules does not mean that there are no problems with legal drafting and translation of policies into legislation, as was acknowledged by staff of the RSL, the PPS and the Parliament.

Figure 9. Number of staff trained on legal drafting



Source: Republic for Secretariat for Legislation.

For the indicator on laws rejected by the Constitutional Court for legal inconsistency or unconstitutionality in 2014, the number was 9, half the number rejected on this basis in both 2012 (18) and 2013 (18).

It was not possible to indicate the number of laws sent back to the Government by the Parliament, as the necessary information was not provided.

All legal texts are available through a central online registry¹⁰⁹. Serbia publishes consolidated versions of legislation (i.e. updated texts in which amendments have been integrated). The basis for this is provided by the Law regulating the Official Gazette¹¹⁰. However, consolidated texts are typically unofficial because official consolidation can only be done if a law explicitly requires it. In light of these factors, the baseline value for the indicator on the extent to which primary and secondary legislation is made publicly available in a centralised manner is 4.

Quality control for legislative drafting is well embedded within the policy development process. Training on legal drafting has increased, and fewer laws are annulled on constitutional grounds than in previous years. All legislation is available electronically, but consolidated versions of laws are typically unofficial texts.

Key recommendations

Short-term (1-2 years)

- 1) Ministries should develop internal rules to set out the process for policy development and legal drafting within the ministries.
- 2) The SEIO and the MoF should jointly support line ministries in developing realistic costings for the most important transposition cases. The SEIO should plan and monitor transposition activities, taking into account the number of directives transposed.

¹⁰⁹ The electronic version of the Official Gazette.

¹¹⁰ Law on Publishing Laws and Other Regulations and Acts, Official Gazette No. 45, 22 May 2013.

Serbia
Policy Development and Co-ordination

- 3) The Government should develop a practice which charges high-level civil servants with resolving conflicts before the political-level becomes involved.
- 4) The Government should submit RIAs for its draft proposals to the Parliament.

Medium-term (3-5 years)

- 5) The Parliament and the Government should ensure that consolidated texts of legislation are routinely compiled when a law is amended.
- 6) The Government should broaden its approach to consultation with external stakeholders and do the consultation at the beginning of and during the development process for both policies and legislation.
- 7) The Government should evaluate its approach to RIAs and assess, *inter alia*, how by-laws might be integrated into the practice of policy analysis, how consultation of external stakeholders could be strengthened and how the overall quality of the analysis could be improved.
- 8) Line ministries should provide costing assessments for all EU transpositions, and the quality of these costings should be assured by the SEIO and the MoF.



PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014- APRIL 2015

1.1. State of play

The horizontal scope of the Law on Civil Service (CSL) is narrow and does not classify as civil servants a large group of public sector employees who, based on their functions, would merit civil service status protection as established under the CSL. The way that distinctions are drawn between senior public servants and political appointees, and the tendency to use acting positions as permanent public servants also leave room for ambiguity.

The legal framework, policies and institutional guidelines are in place, despite some challenges in implementation, to ensure a professional public service. However, the central co-ordination unit, the Human Resource Management Service, is not accountable to the Minister responsible for public administration, and thus lacks the authority to ensure the consistent implementation of the civil service legislation across the administration.

Considerable potential exists for using non-transparent criteria both in both recruitment for and termination from public service employment. Given the history of patronage in the Serbian public administration, the legislation does not fully protect the principles of merit-based recruitment and termination, as promised in the declaratory articles of the CSL.

In 2014, the politicisation of the senior public service persisted. It included the appointment of acting officials, the high number of dismissals after a change of the Government and legal inconsistencies in the selection process. The latest amendments to the CSL make it possible to end the practice of using acting officials to politicise the public service, but this process has to be carefully monitored in 2015.

The public service salary structure is transparent, fair and based on a job classification system.

Despite the good training methodology developed by the central co-ordination unit, the cross-sector training of generic competences and courses needs additional funding, given that the proportion of public servants that benefits from the annual training programme is very low. Performance appraisal is carried out in all public authorities, but only as a paper exercise.

The ethical legal framework is mostly in place, including a variety of legislative measures that prevent corruption and encourage integrity in the public administration. The Anti-Corruption Agency (ACA) has resources to monitor compliance, but it lacks the authority to enforce specific measures, such as the implementation of integrity plans and measures relating to recruitment processes.

1.2. Main developments

In September 2014, the Parliament adopted amendments to the CSL, the Law on Salaries of Civil Servants and Other Employees in State Administration, and the Law on State Administration (LSA)¹¹¹. There have also been changes to the Decree on Classification of Job Positions and the Criteria for Scope of Work Development in Civil Service¹¹².

The Law on Amendments to the CSL includes new measures governing professional development, internship and provisions for advertising vacancies and public competitions. It also provides for the reduction of political influence by the appointment of acting officials, by prohibiting the conversion of a temporary contract into a permanent one.

¹¹¹ Official Gazette No. 99/2014.

¹¹² Official Gazette No. 84/2014.

Serbia
Public Service and Human Resource Management

The amendments to the LSA have converted the position of head of a district into a political appointment. The job tenure of this official is linked to the term of office of the government in power. The justification for this change is that such posts are political in character because the officials must co-operate with mayors and that few professional tasks are performed by these regional officials.

The Law on Amendments to the Law on Salaries in State Authorities and Public Institutions, and the Law on Amendments to the Law on Salaries of Civil Servants and General Civil Employees, include minor amendments relating to seniority pay in state authorities.

A new Law for Whistle Blower Protection was adopted in November 2014¹¹³.

¹¹³ Official Gazette No. 128/2014.

2. ANALYSIS

This analysis covers the seven Principles of the public service and human resource management (HRM) area, grouped under two key requirements¹¹⁴. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover all relevant elements related to public service: scope of the public service and legal framework; professionalism of public service in recruitment, training, performance appraisal; a fair and transparent salary system, and promotion of integrity as well as prevention of corruption.

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

Baseline values

The scope of the public service¹¹⁵ is examined through three qualitative indicators that refer to the scope covered by the legislation, the coherence and professionalism of the policy and legal framework and the institutional set-up enabling consistent cross-organisational HRM practices.

The policy and legal framework are defined and in line with most administrative law principles¹¹⁶. The main challenges reflecting the baseline values are the following: the scope of the public service is narrow; the way in which the boundaries between senior public servants and political appointees are set and the use of acting officials to fill senior positions does not safeguard the principle of merit; the central co-ordination unit is not accountable to the minister responsible for public administration and has limited authority to ensure the implementation of the legislation in a coherent manner across the public service; the central Civil Service Registry is not fully operational to support the strategic workforce planning, management and monitoring of HRM practices in the public service.

¹¹⁴ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 40-56.

¹¹⁵ In [The Principles of Public Administration](#) and in the Baseline Measurement:

The narrow **horizontal scope of public service** is applied, covering: i) ministries and administrative bodies reporting directly to the Government, Prime Minister or Ministers, i.e. the civil service strictly speaking; ii) administrations of the Parliament, the President and the Prime Minister; iii) other administrative bodies at the level of the central administration if they are included in the scope of the public service in terms of the public/civil service law and they exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies; iv) independent constitutional bodies reporting directly to the Parliament.

The **material scope of public service** means that the law on public/civil service establishes all general provisions relevant to the employment relations of public servants and management of public service, such as the scope and principles of the civil service; classification; recruitment and selection, including of civil servants in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (main principles and components of salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service relationship; termination of employment, including demotion and redundancy; management and central co-ordination of the civil service.

The **vertical scope of public service** means that the law on public/civil service clearly determines the upper and lower division line between political appointees, public servants and support staff.

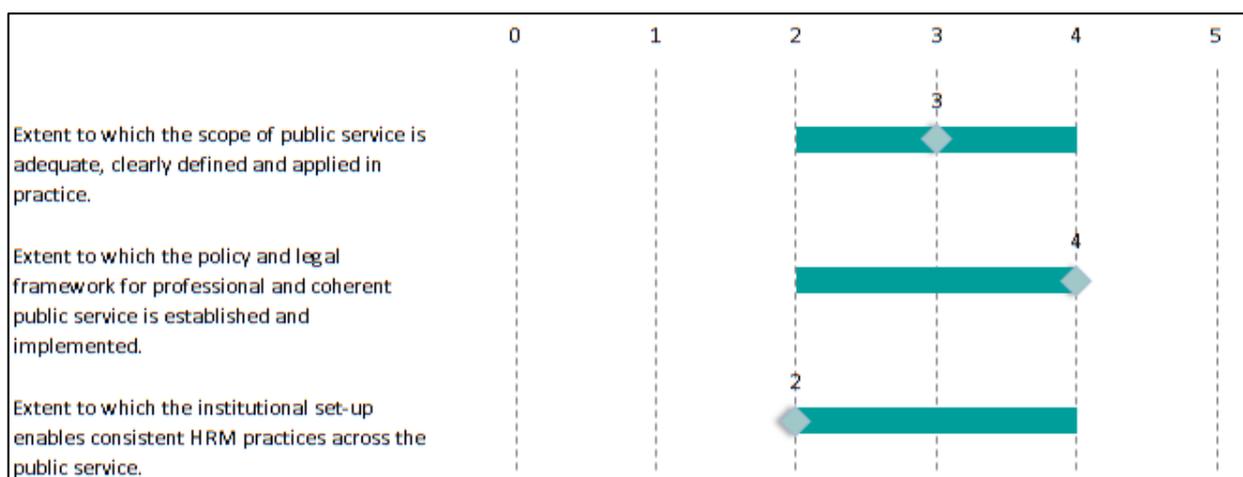
¹¹⁶ Openness and transparency, accountability, efficiency and effectiveness, SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, p. 45.

Serbia
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	2014	3
	2	Extent to which the policy and legal framework for professional and coherent public service is established and implemented.	2014	4
	2	Extent to which the institutional set-up enables consistent HRM practices across the public service.	2014	2

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

Primary legislation on public service is governed by several articles of the Constitution¹¹⁷, the Law on State Administration/LSA (2005)¹¹⁸, the Law on Civil Service/CSL (2005) (which was amended for the seventh time in 2014)¹¹⁹ and Law on Salaries of Civil Servants and Other Employees (2006) (amended for the sixth time in 2014)¹²⁰.

¹¹⁷ Constitution of Serbia, Articles 6, 53, 60 and 136.

¹¹⁸ The LSA, Official Gazette No. 79/2005, 101/2007, 95/2010, 99/2014.

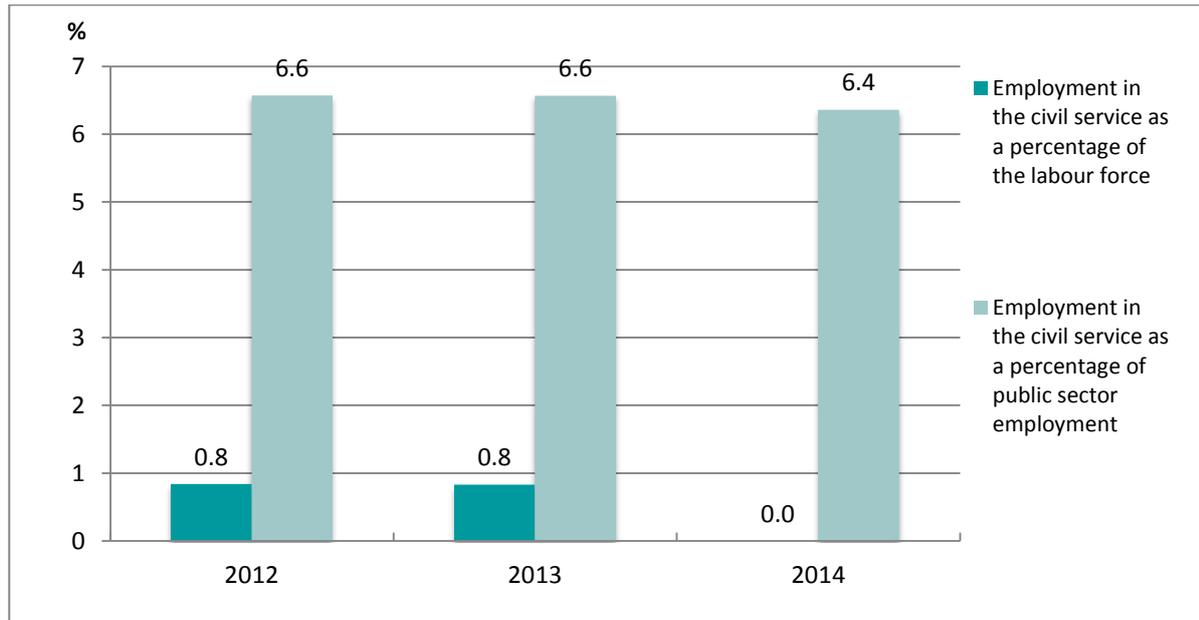
¹¹⁹ The Law CSL, Official Gazette No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014.

¹²⁰ The Law on Salaries of Civil Servants and Other Employees, Official Gazette Nos. 62/2006, 63/2006, 115/2006, 101/2007, 99/2010, 108/2013, 99/2014.

Serbia
Public Service and Human Resource Management

The scope of the civil service, based on the CSL and related by-laws, is narrow. It applies to 23 728 civil servants, representing 6.4% of the public sector employment¹²¹ (375 068 in 2014) and 0.8% of the total labour force¹²² (2 966 838 in 2013)¹²³. Many employees in certain state authorities, such as the Ministry of Interior (which has more than 47 000 public employees), customs and tax service, and prison service, perform functions comparable to civil servants', but the special legislation under which they work is not based on the principles of the CSL. As a result, many employees exercising public authority and responsibility for safeguarding the general interests of the state do not have civil service status. The definition of a civil servant is linked to the institution¹²⁴ and not to the type of functions performed¹²⁵.

Figure 2. Employment in the civil service as a percentage of the labour force and of public sector employment, 2012-2014



Source: Statistical Office of the Republic of Serbia, Ministry of Public Administration and Local Self-Government

Figure 3. Public sector employment as a percentage of the labour force, 2012-2013

¹²¹ The public sector employment includes employed persons in the following sectors of activities: public administration, defence, compulsory social security, education, human health and social work activities.

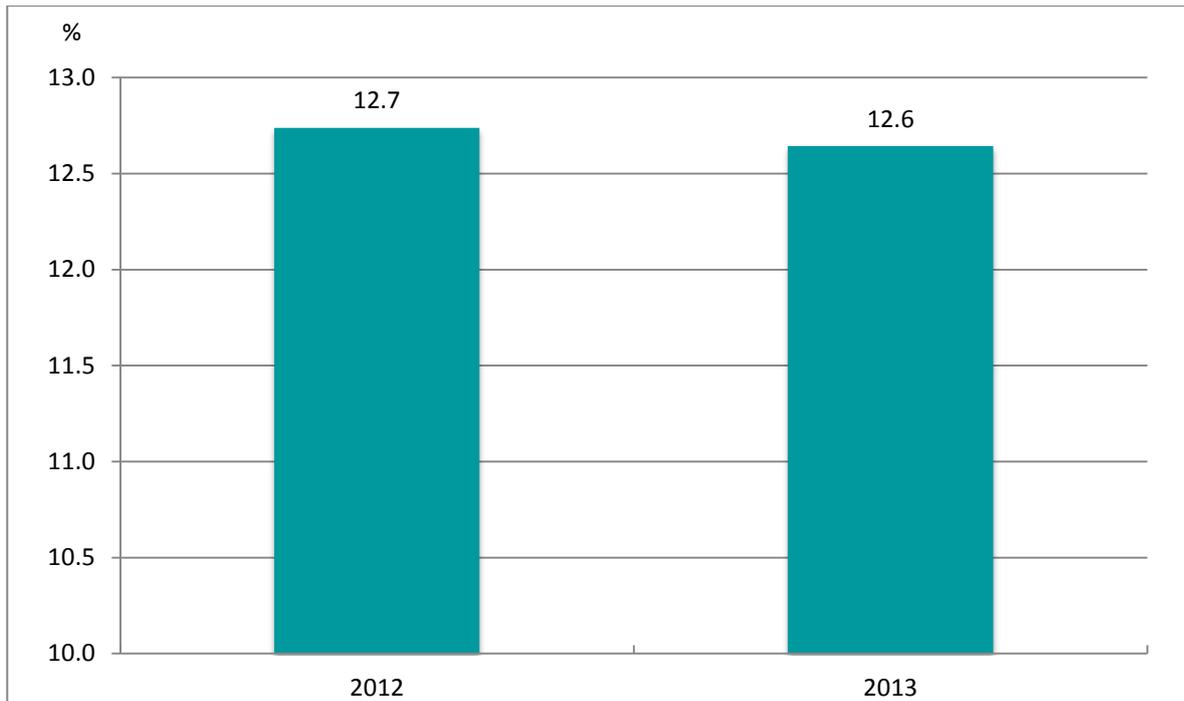
¹²² The labour force includes country's working age population that engages actively in the labour market, either by being employed or unemployed.

¹²³ Statistical Office of the Republic of Serbia, MPALSG.

¹²⁴ The CSL, 79/2005, Article 2.

¹²⁵ SIGMA (2014); *The Principles of Public Administration*, OECD Publishing, Paris, p. 44: "positions with public authority to exercise powers conferred by public law and with responsibility for safeguarding the general interests of the state or other public bodies".

Serbia
Public Service and Human Resource Management



Source: Statistical Office of the Republic of Serbia, Ministry of Public Administration and Local Self-Government

Regarding the vertical scope of the public service and the determination of the boundaries between the public service and political appointments:

- 1) the LSA establishes a distinction between political posts (e.g. state secretary¹²⁶), whose incumbents are appointed and dismissed at the will of the minister, and administrative posts;
- 2) the CSL differentiates between appointed positions (state secretaries; assistant ministers; directors and deputy directors of government services; directors, deputy and assistant directors of special organisations within the service of government)¹²⁷ whose selection process is supervised by the High Civil Service Council¹²⁸, and executive positions¹²⁹. However, this distinction is blurred by the LSA because the Government appoints assistant ministers and the secretaries of ministers for a period of five years at the proposal of the minister, in accordance with CSL¹³⁰. These positions thus have an ambiguous status, being classified formally as civil servants but in practice they are political appointees for a fixed term¹³¹.

At the lower level of the hierarchy, the distinction between civil servants and support staff is clearer, since government employees are defined by the type of functions they perform, which consist of supporting, supplementary and technical work for the state authority¹³².

Regarding the material scope of the public service, the CSL and its by-laws cover all relevant areas, in line with the Principles¹³³.

¹²⁶ The LSA, 79/2005, Article 24.

¹²⁷ The CSL, 79/2005, Article 34.

¹²⁸ The CSL, 79/2005, Articles 164-169.

¹²⁹ The CSL, 79/2005, Articles 35-43.

¹³⁰ The LSA, 79/2005, Articles 26 and 27.

¹³¹ According to the MPALSG, of the 18 people appointed to these positions in 2014, all passed the appropriate selection process. This is comparable to the process for executive positions, including tests, case studies and an interview with the selection committee. Of the 18, 17 were ranked first and one was ranked second on the shortlist of the respective recruitment process.

¹³² The CSL, 79/2005, Article 2.

¹³³ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, p. 44.

The major concern regarding the practical application of the scope is the use of acting officials in senior public service positions and retaining them permanently in these positions. The CSL does allow for discretionary action of this kind, but several amendments to the legislation have been proposed unsuccessfully to close this gap in the past¹³⁴. Recent amendments passed in 2014 are more promising¹³⁵ (see below), but the first results will be seen only in 2015 because the respective provisions are being implemented only from 19 March 2015.

The factors above account for a baseline value of 3 for the indicator on the scope of public service.

The horizontal scope of the public service is limited, leaving many employees exercising key state functions without the status of civil servant. Some conflicts remain, concerning the way in which the boundaries between senior public servants and political appointees are set and the use of acting officials to fill senior positions on a quasi-permanent basis.

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

Several policy documents mention the public service and its values: the Public Administration Reform (PAR) Strategy approved in January 2014, the Action Plan for PAR Strategy Implementation 2015-2017¹³⁶, the Strategy on Professional Development of Civil Servants 2013-2015, adopted in 2013, and the document on National Priorities for International Assistance in the Republic of Serbia for the period 2014-2017. These policy documents are implicitly in agreement with the European administrative law principles¹³⁷. They also mention explicitly some public service core values, especially the principle of ensuring that recruitment and promotion are based on merit. Moreover, one objective of the PAR Strategy is to establish a transparent and equitable public service salary system as an exemplar for salary systems in other parts of the public employment system.

The Ministry of Public Administration and Local Self-Government (MPALSG) is the political institution responsible for the public service and in charge of policy design in the area of state administration. It drafts the legislation related to public administration and public service. The Ministry also drafted the PAR Strategy, which gives it a leading role in monitoring and evaluating the implementation of the Strategy. Finally, the monitoring of the CSL implementation is the responsibility of the Administrative Inspectorate, which is subordinate to the MPALSG.

Although the central co-ordination unit for public service, the Human Resources Management Service (HRMS), does not have policy making powers, it is assigned an important role as facilitator of HRM processes. Its competences include advertising vacancies for internal competition and supporting and monitoring competition procedures at the executive level. It also prepares the Annual Human Resources (HR) plan for the Government, keeping track of the implementation of HR plans of state administrative authorities. In addition, it maintains the Civil Service Registry, prepares and conducts training programmes, and assists the High Civil Service Council (HCSC) and the Government's Appeals Commission. The co-ordinating role of the HRMS includes publication of handbooks and guidelines to better implement the CSL and several by-laws, as well as bilateral contacts with HR managers in public bodies. However, because the HRMS is not accountable to the MPALSG but to the Secretariat of the Government, and has only formal communication with the MPALSG, it does not have the authority to ensure that public service legislation is implemented consistently across the administration.

¹³⁴ Amendments to the CSL, 67/2007, 116/2008 and 104/2009.

¹³⁵ Amendments to the CSL, 99/2014, Articles 67a, 67b; transitional provisions: Articles 30[s2], 31 [s2].

¹³⁶ Approval has been delayed, due to comments from SIGMA and the EC that have caused considerable reconsideration of the issue, and also to contributions of the relevant bodies and organisations of the Republic of Serbia at the first meeting of the Special Group on Public Administration Reform, 23 and 24 October 2014, p. 3.

¹³⁷ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 45: reliability, predictability, openness, transparency, accountability, efficiency and effectiveness.

The HRMS is in charge of the Civil Service Registry, but its data is not used to manage and monitor the system. It is conceived of as an instrument to help different authorities manage their human resources, but individual authorities normally use their own registry or database for that purpose. The data is updated by the state authorities and the HRMS monitors it. But it has not been effective so far in getting the state authorities to update the information in the Registry in a timely fashion.

Public service legislation undergoes continuous amendments, which reduce the stability and predictability that a legal system should provide.

Oversight of the implementation of the CSL is carried out by the Administrative Inspection, which lacks the resources to inspect the sheer number of public sector organisations. The Inspection has 24 inspectors, including the director and assistant director, and is responsible for inspecting 40 000 organisations. This is clearly not manageable, and some areas are not inspected in full. For instance, the timeliness and accuracy of information in the Civil Service Registry was not inspected in 2014.

The factors led to values of 4 and 2 respectively for the indicators which assess the policy and legal framework, and the institutional set-up for a professional and coherent public service.

The legal framework, policies and institutional set-up are in place, but some challenges remain in ensuring a professional public service. The central co-ordination unit, the HRMS, as it is not accountable to the Minister responsible for public administration, lacks the authority to ensure the implementation of the legislation in a coherent manner across the public service.

Key recommendations

Short-term (1-2 years)

- 1) The Government should review and reform the current institutional set-up in charge of public service. Enhancing its capacity to manage and consistently implement the legislation on the civil service could help to clarify the roles and competences of the Ministry responsible for public administration and the HRMS.
- 2) The HRMS, in co-ordination with the MPALSG, Ministry of Finance and Administrative Inspection, should require public authorities to update information in the Civil Service Registry.

Medium-term (3-5 years)

- 3) The Government (MPALSG and MoF) should make sure the Civil Service Registry is interoperable both with the new salary registry and other relevant registries, to ensure accuracy and avoid duplication of data.
- 4) The MPALSG should increase the Administrative Inspection's capacity to monitor implementation of the CSL.
- 5) The MPALSG should conduct a comprehensive assessment of the implementation of the civil service reform to identify the real impact of the legal framework and the HRM practices, and to improve accordingly the legislation, institutional set-up and implementation practices.

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

Baseline values

Professionalism is examined through 8 qualitative and 16 quantitative indicators that refer to merit-based recruitment and termination of employment in the public service, including senior public servants. It also implies a fair and transparent salary system, professional development and appraisal of public servants, and measures for promoting integrity and preventing corruption in the public service.

Serbia
Public Service and Human Resource Management

The main challenges, which are reflected in the baseline values, are the following: the recruitment regulations weaken the commitment to merit-based recruitment and selection of public servants in practice; a considerable number of senior public servants have been appointed as acting officials without any competitive procedures and respect for merit criteria; the salary system, which is based on a job classification structure, is transparent but lacks some fairness; training strategies and plans exist but training does not reach all public servants; performance appraisal needs to realise its potential by converting a formal exercise into a real process that is implemented in accordance with good practice standards; although there are many anti-corruption measures in place, the perception of corruption is still high in the country; disciplinary procedures are adequately regulated and without major problems in implementation.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Extent to which the recruitment of public servants is based on the merit principle in all its phases.	2014	3
	3	Extent to which the termination of employment of public servants is based on merit.	2014	3
	4	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2014	2
	5	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	2014	4
	6	Extent to which the training system of public servants is in place and applied in practice.	2014	3
	6	Extent to which the performance appraisal system of public servants is in place and applied in practice.	2014	3
	7	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	2014	3
	7	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	2014	4
Quantitative	3	Annual turnover of civil servants at the level of central administration.	2014	3.56%
	3	Turnover of civil servants at the level of central administration within six months of a change of Government.	2014	867
	3	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	2014	82.9%

Serbia
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
	3	Percentage of vacant positions filled by internal competition in the civil service at the level of central administration.	2014	17.1%
	3	Percentage of women in the civil service at the level of central administration.	2014	Not available ¹³⁸
	3	Percentage of women in senior managerial positions in the civil service at the level of central administration.	2014	26.8% ¹³⁹
	3	Percentage of civil servants at the level of central administration by different ethnic origin in relation to the general ethnic division in the country based on the latest census.	2014	Not available
	4	Annual turnover of senior managerial civil servants at the level of central administration.	2014	Not available
	4	Turnover of senior managerial civil servants at the level of central administration within six months of a change of government.	2014	29
	4	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	2014	5.1%
	4	Percentage of vacant senior managerial positions at the level of central administration filled by internal competition.	2014	1.2%
	5	Ratio of average annual compensation of central government senior and junior professionals to compensation of tertiary-educated workers.	2014	Not available
	5	Ratio of average annual compensation of central government senior public servants to compensation of tertiary-educated workers.	2014	Not available
	7	Transparency International Corruption Perception Index – the country score.	2014	41 ¹⁴⁰
	7	Citizens' perception of the integrity and trustworthiness of the public service.	2014	Not available

¹³⁸ "Not available" means that the respective data was not provided to SIGMA by the administration.

¹³⁹ According to the HRMS.

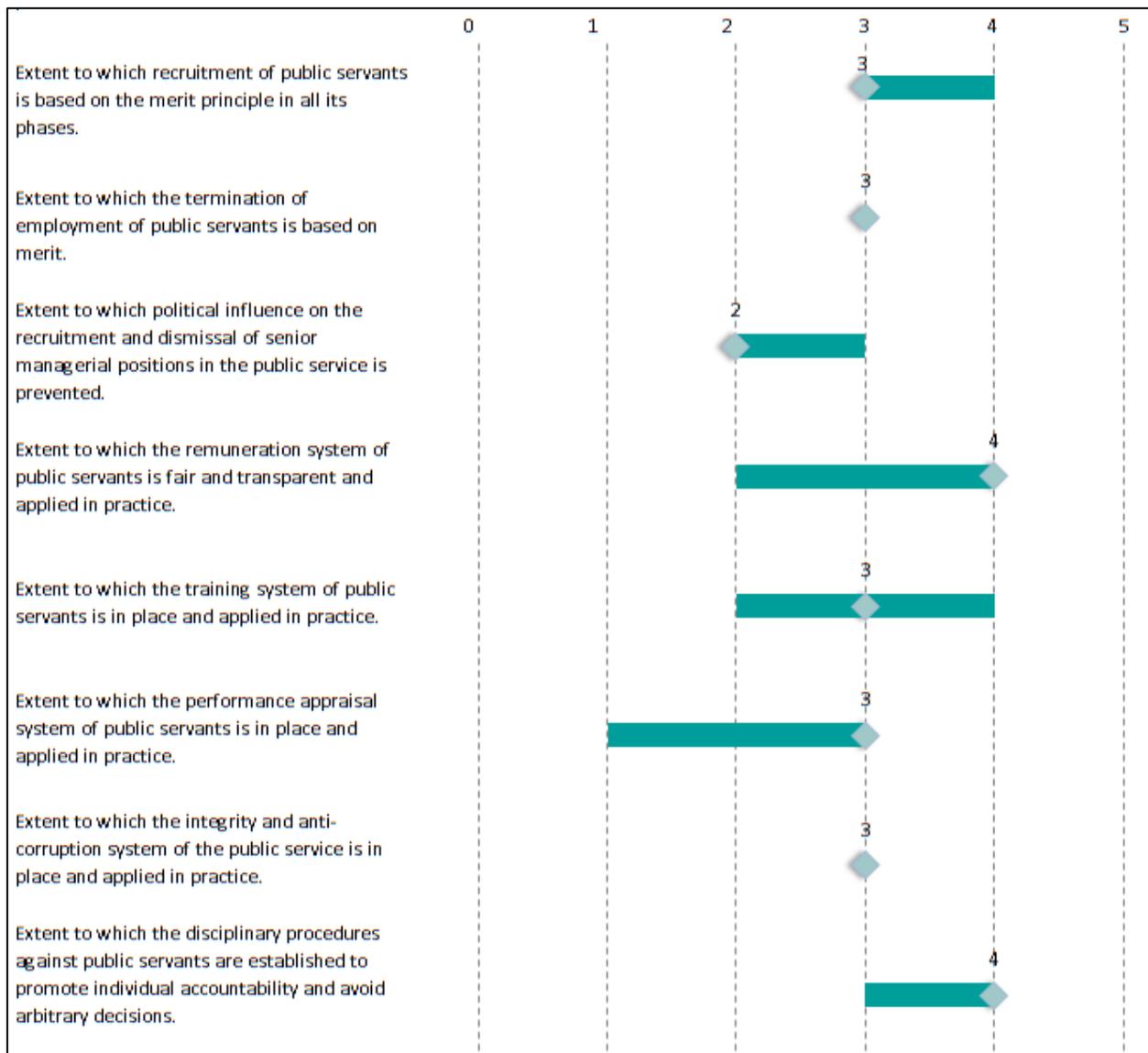
¹⁴⁰ This is on a scale of 0-100.

Serbia
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
	7	Number of public servants who have been criminally convicted of corruption crimes.	2014	Not available

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 4. Country baseline value in comparison with the regional range



Analysis of Principles

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

Serbia
Public Service and Human Resource Management

The process for filling a vacancy is regulated by primary and secondary legislation¹⁴¹ and operates for all the vacancies that have been approved in the annual personnel plan. There are distinct processes for executive (the level below senior public servants) and appointed positions (for senior public servants). The number of external competitions was reduced from 648 in 2013 to 97 in 2014¹⁴² as a consequence of the 1:5 replacement ratio imposed by the Government¹⁴³.

The professionalisation of public servants by merit recruitment is protected under the CSL¹⁴⁴. The legislation, however, has several provisions that undermine the objectivity of the process. First, the appointing authority has considerable discretion in deciding when to apply secondment, transferral, internal competition or public competition¹⁴⁵. This provision reduces the transparency of the recruitment process. Second, rules for promotion and public competition are the same, i.e. a Selection Committee established by the appointing authority assesses the candidates through different elimination stages. This process is not appropriate for a system that has been infiltrated by patronage. The Selection Committee is basically formed by in-house staff, since it has at least three members and only one of them is required to be from the HRMS. Furthermore, the legislation does not specify clearly the qualifications required of the Selection Committee members. In addition, the appointing authority may select any one of the shortlisted candidates, even though the shortlist includes three candidates in a ranking order. The appointing authority thus has an additional chance to exert influence in a non-transparent way. The average number of candidates per vacancy from external competition was 10 in 2014 (30 in 2013). One external competition for the Ministry of Finance attracted an extraordinarily high number of candidates¹⁴⁶ (8 000 candidates for 17 vacancies, i.e. 471 candidates per vacancy). The average number of candidates competing in an internal competition is far lower (3 in 2014).

In addition, two options allow direct recruitment outside the regular merit procedure: the recruitment of temporary employees and personnel “under contract” (on service contracts). Temporary positions are normally not publicly advertised and such advertisements are not mandated. There were 1 277 such contracts in the core state administration in 2014. Contracted personnel, moreover, are directly hired to fill positions that do not formally exist in the Rulebook on Internal Organisation and Job Systematisation, even though they can perform public service tasks.

Public servants have clear rights to appeal against recruitment processes to the Government Appeals Board. In 2014, 10.2% of all 2 575 appeals were related to recruitment¹⁴⁷, primarily to procedural violations, incompleteness of the application or selection of a candidate who was not the first in the ranking. The Board may ask the appointing authority to give better justification for the decision, but this alone will not change discretionary patterns of recruitment in executive positions.

Termination of employment or reassignment of the public servant can be caused by a reorganisation, which implies the abolition of the position¹⁴⁸ and/or a final decision of “unsatisfactory” in the extraordinary performance appraisal¹⁴⁹ (3 cases in 2013)¹⁵⁰. These provisions can lead to a certain degree of arbitrariness, since the protection of public servants is relatively weak. In 2014, six months

¹⁴¹ Numbers and dates: the CSL, 79/2005; “Rulebook on Internal Organisation and Systematisation of Working Posts”; Authorities’ personnel plans; Regulation on Conducting an Internal and Public Competition for Occupying Working Posts in State Authorities; “Rulebook on Professional Qualifications, Knowledge and Skills Tested in a Selection Procedure, Method of Their Verification and Criteria for the Selection for Working Posts”.

¹⁴² MPALSG.

¹⁴³ The World Bank Group – Serbia Partnership. Programme Snapshot. October 2014, p. 4.

¹⁴⁴ The CSL, 79/2005, Articles 9, 11.

¹⁴⁵ The CSL, 79/2005, Articles 49.

¹⁴⁶ MPALSG.

¹⁴⁷ The Government Appeals Board. Annual Report 2014.

¹⁴⁸ The CSL, 79/2005, Article 77.

¹⁴⁹ The CSL, 79/2005, amended this article in 9/2014, Article 78.

¹⁵⁰ Contributions of the relevant bodies and organisations of the Republic of Serbia for the first meeting of the Special Group on Public Administration Reform, 23 and 24 October 2014, p. 29.

after the change of government, public service employment was terminated in 867 cases (none of them as a consequence of performance appraisal results). These terminations resulted in 643 appeals, which accounted for 25% of the 2 575 total appeals. Of those appeals, 606 were related to the termination of employment with the right to a special pension. It is difficult to link those appeals to the number of dismissals, since the data from the Government Appeals Board covers the period from 1 September 2013 to 31 August 2014.

All these factors influence the values of the qualitative indicators on objective and merit-based recruitment and termination of employment of public servants, each of which is 3.

The potential for using non-transparent and merit-based criteria in the recruitment and termination of public service employment is considerable. Given the tradition of patronage, legislation alone is not sufficient to safeguard the principle of merit.

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

Senior managerial positions are regulated by the CSL¹⁵¹. Their number was 355 in 2014 (down from 378 in 2012)¹⁵². The law stipulates mandatory recruitment by internal or public competition for senior managerial positions and establishes special professional requirements that potential candidates have to meet in order to apply for these positions. These requirements were updated in 2014¹⁵³. However, at the same time, the regulations did allow for political influence over senior staffing in 2014. First, the former CSL allowed the appointment of an acting official (on a temporary basis) to a senior position for an indefinite period of time. This is expected to change with the amendments of 2014. Second, any member of the Selection Commission appointed by the High Council of Civil Service has the right to veto any candidate. The influence of the representative of the recruiting body may thus be decisive when shortlisting the candidates. Furthermore, the Minister may refuse all of the three shortlisted candidates. In contrast to past practice, under the recent amendments of the CSL¹⁵⁴, the Minister cannot propose an acting official for appointment, and the HRMS is required to announce a new public competition. An eliminated candidate cannot appeal to the Government Appeals Board and is limited to initiating an administrative dispute against an unfair decision.

The numbers show that the turnover of senior public servants is high, possibly because of the change of government¹⁵⁵. In 2014, 247 out of 355 recruitment cases were non-merit based (69.6%). The percentage is a little higher than in 2013, when the percentage of non-merit based appointments was 63% and 64% respectively for ministries and government services¹⁵⁶. Non-merit based appointments consist of the appointment of an acting senior official, which has been one of the major concerns of politicisation in the senior civil service¹⁵⁷. Furthermore, the average number of candidates per vacancy (3) is low in internal competitions¹⁵⁸. This could be explained by mistrust of the system or by the requirement to account for nine years of experience after graduation.

Several unsuccessful attempts have been made in the past to close this loophole of non-merit-based recruitment through the appointment of acting officials¹⁵⁹. Recent amendments enacted in 2014 are more promising¹⁶⁰. According to the amendments, acting senior public servants are appointed for a

¹⁵¹ The CSL, 79/2005, Article 34.

¹⁵² MPALSG.

¹⁵³ The CSL, 79/2005; the CSL, 99/2014, Article 45.

¹⁵⁴ The CSL, 99/2014, Article 72.

¹⁵⁵ There were Parliamentary elections in April 2014.

¹⁵⁶ MPALSG.

¹⁵⁷ Contributions of the relevant bodies and organisations of the Republic of Serbia for the first meeting of the Special Group on Public Administration Reform, 23 and 24 October 2014, p. 15.

¹⁵⁸ No data are available on the average number of candidates for external positions. MPA.

¹⁵⁹ Amendments to the Civil Service Law, 67/2007, 116/2008 and 104/2009.

¹⁶⁰ Amendments to the Civil Service Law, 99/2014, arts. 67a, 67b. Transitional provisions: arts. 30[s2], 31 [s2].

limited duration of six months (nine months at the most). After this period, the appointing authority must organise a competition to fill the vacancies and appoint a managerial public servant. Between the approval of the amendments and February 2015, 55 procedures have been initiated to appoint acting officials through competition¹⁶¹. The final deadline, according to the latest amendments of the CSL, is September 2015, which may not be realistic. In any case, this provision should theoretically allow for overcoming the problem of directly appointing a senior public servant without competition.

The legislation's stipulations on termination of senior public servants are not clear cut. The amended CSL¹⁶² states that the appointing authority may dismiss a senior public servant if, at the time of his or her appointment, there was a "serious disturbance" in the operation of the state body he or she managed. The legislation does not give clear guidelines as to what this might refer to. Six months after the last change of government in 2014, the employment of 29 senior public servants was terminated¹⁶³, which can be interpreted as a failure to respect objective criteria. According to the MPALSG, most of the 29 individuals remained in public service, but at a lower level (no definitive data is available) and their salary was progressively reduced over a three-year period from the salary level of the higher grade to that of the new grade.

Given the serious concerns over recruitment and termination procedures of senior public servants, the final value for this qualitative indicator is 2.

In 2014, politicisation of the senior public service persisted, in the appointment of acting officials, the high number of dismissals that followed the change of government and the legal inconsistencies in the selection process. New arrangements have been made to end the ongoing use of acting officials as a form of politicisation, but this process must be carefully monitored in 2015.

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

The salary system is regulated by the 2007 Law on Salaries of Civil Servants and General Service Employees. The present system is formally homogeneous and transparent, as most of the allowances of the previous system have been integrated into the basic pay scale, which currently accounts for about 75% of the total. Nevertheless, salaries have generated a considerable number of appeals (16.1% of all appeals are related to a salary decision). Of those, 59.6% are related to the classification and determination of the coefficient¹⁶⁴.

In addition, the performance appraisal system has had severely dysfunctional consequences for the salary policy. As a result of "good" performance, most public servants are entitled to "horizontal" advancement (salary steps), which puts unsustainable pressure on the payroll. The Ministry of Finance has limited this practice by capping the annual percentage of staff who receive these increases at 20%. This in turn has encouraged discretionary awards of salary steps, since no transparent process is in place to identify the 20% selected as beneficiaries. Sometimes the managers make a proposal based on an internal quota, which is distributed evenly among departments. In other organisations, the application of quotas is done alternately, in an attempt to cover all public servants over the years. Furthermore, the Budget Law banned performance bonuses for 2014, unless the agency had its own revenue to pay them. If no clear criteria are established to determine the variable elements of salary, applicable to all public servants in the primary public service legislation, the salary system cannot be transparent and fair. According to the Ministry of Finance, the previous system will no longer be applied in 2015, since no budgetary appropriation will be available to grant these salary steps even to 20% of public servants.

¹⁶¹ Data provided by the HRMS.

¹⁶² The CSL, 79/2005; CSL, 99/2014, Article. 78.

¹⁶³ MPALSG.

¹⁶⁴ Appeals Board. *Annual Report* 2014.

Serbia
Public Service and Human Resource Management

A draft policy “Transparent and Fair: Wages and Salaries System Reform” is under discussion to harmonise the salary policy of public servants with that of other public sector employees¹⁶⁵. The introduction of a centralised payroll system should enhance the transparency and fairness of the whole system.

The average monthly salary of all public servants is RSD 47 287 (EUR 391.5), somewhat lower than the average salary in the economy as a whole (RSD 49 970, or EUR 414.2¹⁶⁶). The compression rate is 7:1. In recent years, senior public service positions have lost purchasing power.

The transparent salary system based on job classification, which displays some lapses in fairness across the public service, results in a value of 4 for this indicator.

The salary structure for public servants is transparent, fair (with minor inconsistencies) and based on a job classification system.

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

The HRMS is entrusted with the training on horizontal issues for all public servants in the CSL. It has submitted 9 professional development programmes to the government since 2007, with contributions from all state bodies. The annual training programme is derived from a training needs analysis based on several sources. These include requests from individual authorities, analysis of strategic documents, new regulations that may require training, and appraisal reports. Evaluation forms from trainees and an electronic survey sent to all public servants are also considered.

In the recent amendments to the CSL in 2014, the competences of training were changed. General programmes for professional training are now approved by the MPALSG and delivered by HRMS. Training programmes on EU issues will be led by the SEIO. The HRMS can provide international programmes that SEIO agrees upon with the HRMS.

In 2014, the HRMS and SEIO trained 3 798 public servants, a number that had progressively fallen over three years (with 5 541 trainees in 2012 and 4 139 trainees in 2013). This reduction in training can be explained by at least three factors: a) the Law on Public Procurement that entered into force in April 2013 has slowed down the process and made it impossible in some cases to find trainers; b) the decision that training contracts could only be concluded according to the Law on Budget System¹⁶⁷; c) a steady reduction of donor support¹⁶⁸. The training budget of the HRMS and SEIO fell from RSD 4 873 000 (EUR 39 950) in 2012 to RSD 4.3 million (EUR 35 250) in 2014.

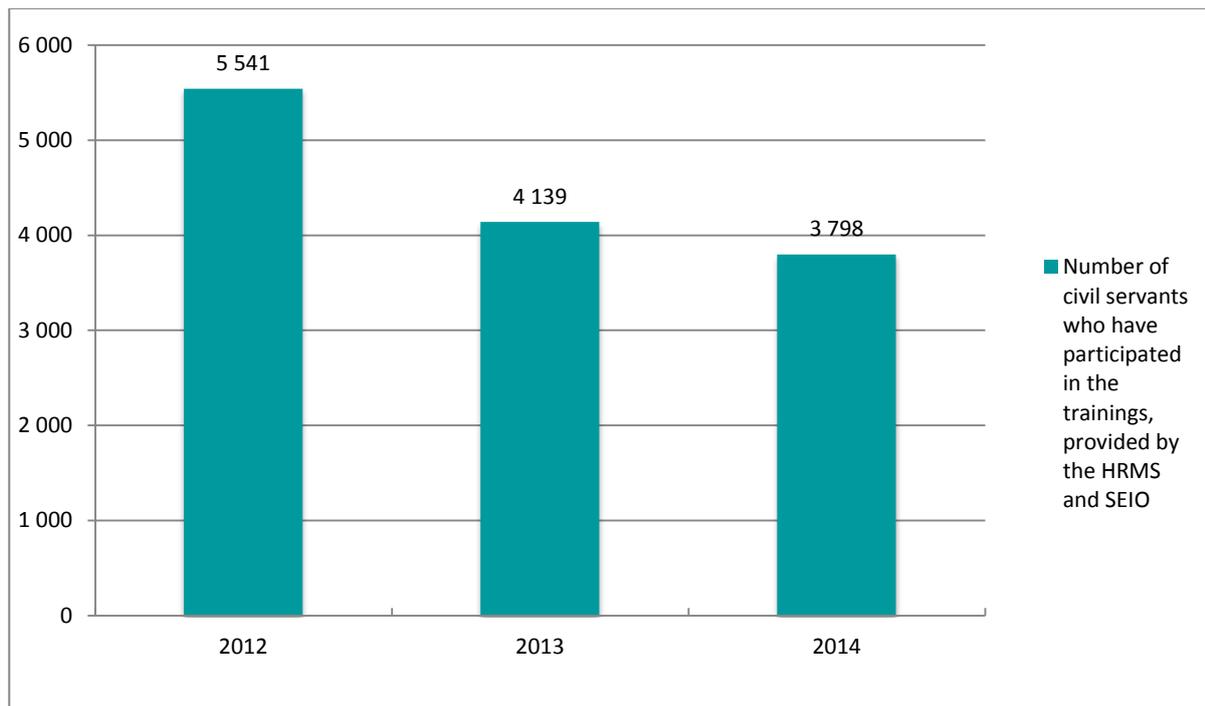
¹⁶⁵ Contributions of the relevant bodies and organisations of the Republic of Serbia for the first meeting of the Special Group on Public Administration Reform, 23 and 24 October 2014, p. 49.

¹⁶⁶ www.tradingeconomics.com/serbia/wages. A substantial decrease in the average salary took effect in January 2015 (RSD 39285 – EUR 325.5).

¹⁶⁷ Human Resource Management Service.

¹⁶⁸ The proportion of donor support decreased from 55% of the HRMS training budget in 2011 to 30% in 2013.

Figure 5. Training of civil servants, 2012-2014



Source: Human Resource Management Service, Serbia European Integration Office.

This level of training cannot satisfy public servants' statutory right¹⁶⁹ to training. Fewer than 10% of public servants a year are able to take the courses the HRMS offers. The HRMS surveys participants' satisfaction in the training courses and evaluates the outcome of the trainings, but no evaluation has yet been made of the impact of training. Training has not yet been made a part of the appraisal system, since training needs are not a consequence of performance appraisal. Furthermore, no public servant graded as "unsatisfactory" has been referred to training between 2007 and 2013¹⁷⁰.

Performance appraisal is carried out annually by immediate supervisors in most state authorities. Past figures¹⁷¹ show an inflation of appraisal grades, and more than 80% of public servants are appraised as very good or exceptional. A lack of data made it impossible to track the trend for 2014. This practice indicates that the current system is largely irrelevant and is essentially only an exercise on paper. In addition, the performance appraisal has some dysfunctional consequences. As a consequence of "good" performance, most public servants are entitled to "horizontal" advancement (salary steps), which puts unsustainable pressure on the payroll (see more under Principle 5).

Appraised public servants have the right to appeal their grade. The Government Appeals Board registered a total of 112 appeals (4%) of performance appraisals from 1 September 2013 to 31 August 2014.

Given that the professional development and appraisal of public servants functions formally, despite some practical concerns, the baseline value for each of the respective qualitative indicators is 3.

Despite the HRMS' good training methodology, the cross-sectoral training of generic competences and courses is insufficiently funded, and the proportion of public servants that the Annual Programme reaches is very low. Performance appraisal is carried out in all public authorities, but only as a paper exercise.

¹⁶⁹ The CSL, 79/2005, Articles. 10, 96.

¹⁷⁰ Contributions of the relevant bodies and organisations of the Republic of Serbia for the first meeting of the Special Group on Public Administration Reform, 23 and 24 October 2014, p. 28.

¹⁷¹ SIGMA (2014), *Assessment of Serbia*, OECD Publishing, Paris.

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

A new key development in 2014 was the adoption of the Law on Whistle Blower Protection¹⁷². In addition, ACA disseminated a “Rulebook on Protection of Persons who Declare Corruption”, which provides a procedure for reporting corruption cases on its website.

Conflicts of interest for public servants are regulated in the CSL and in the Law on the ACA¹⁷³. The HCSC adopted the Code of Conduct for public servants in 2008. Awareness of this Code is limited, and most state authorities have developed their own codes.

The ACA is responsible for preventing conflicts of interest in the public administration. It is also charged with monitoring implementation of the National Anti-Corruption Strategy, developing guidelines for state authorities’ integrity plans, monitoring asset declarations (for public officials only, not civil servants) and co-ordinating the work of state institutions in fighting corruption.

In 2014, 2121 institutions (47%) complied with the legal obligation to draft an integrity plan, which is monitored by the ACA¹⁷⁴.

These measures have not greatly influenced the public perception of corruption. Serbia’s value of 41/100 (with a value of 0 meaning “highly corrupt” and 100 “highly clean”) in the Corruption Perception Index of Transparency International (TI) gives it a ranking of 78/175¹⁷⁵.

The legislation sets out a clear system of disciplinary procedures for minor and serious violations of duty, in accordance with the Principles¹⁷⁶. The process for disciplinary action and sanctions are fair according to the legislation, and managed by a disciplinary committee¹⁷⁷. Disciplinary action against senior public servants is carried out by the HCSC. In the event of a complaint of unfair treatment, those occupying senior positions must initiate an administrative dispute.

Based on the above analysis, the value of the integrity indicator is 3 and the value of the disciplinary indicator is 4.

The ethical legal framework is largely in place, with a number of legislative measures that prevent corruption and encourage integrity in public administration. The ACA has the resources to do the monitoring but not the powers to enforce sanctions in the case of specific measures. These include the implementation of integrity plans governing recruitment processes. The disciplinary procedures are adequately regulated, without major problems of implementation.

Key recommendations

Short-term (1-2 years)

- 1) The MPALSG, in co-operation with the HRMS, should support and monitor the implementation of merit-based recruitment, in accordance with the amendments to the CSL. It is also tasked with developing guidelines and delivering targeted training to selection committees.
- 2) The Administrative Inspection should review the implementation of the CSL regarding acting senior civil servants and ensure that the spirit of the law is respected.

¹⁷² The Law 128/2014 on Whistle Blower Protection.

¹⁷³ The Law 97/08 on the Anti-corruption Agency, section III.

¹⁷⁴ Contributions of the relevant bodies and organisations of the Republic of Serbia for the first meeting of the Special Group on Public Administration Reform, 23 and 24 October 2014, p. 16. Also part of the scope of the Action Plan for Implementation of the Strategy for Professional Development of Civil Servants in the Republic of Serbia for the period 2013-2015, p.37.

¹⁷⁵ <https://www.transparency.org/cpi2014/results>.

¹⁷⁶ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 54-55.

¹⁷⁷ The CSL 79/2005, Articles 107, 110, 120.

Serbia
Public Service and Human Resource Management

- 3) The Parliament should allocate adequate funding to the HRMS and SEIO for the professional development of public servants.

Medium-term (3-5 years)

- 4) The ACA, in co-operation with the MPALSG and the HRMS, should improve capacities for managing integrity in the public service. This would involve jointly developing models and methodologies for elaborating integrity plans in selected administrative bodies, in order to train integrity managers and monitor these plans.



ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The regulations clearly define the responsibility of all state organisations. Ministries are legally responsible for steering and controlling subordinate bodies, concerning both legal compliance and efficiency. The large number of bodies reporting directly to the Government (25) and to Parliament (21)¹⁷⁸, however, hampers efficient steering and oversight. In 2014 the status of the heads of district offices changed: they are no longer civil servants.

The Law on Access to Public Information is mostly in line with the Principles. However, the supervisory authority on access to public information has neither the power nor the capacity to monitor the state of play in all public institutions. The predominant reason for complaints submitted to the supervisory authority is non-response from institutions (93.5%). In addition, there is a legal obligation to proactively disseminate basic public information about each institution on its website but, in practice, the content of the pages is non-compliant.

The public administration implements the majority of the recommendations of the Ombudsman, whose remit of competences is wide, according to legal provisions. In practice, however, the Ombudsman faces some problems in co-operation with the Government.

In Serbia, the Administrative Court is overloaded. The backlog is considerable and is being reduced very slowly. The Court rarely uses the inquiry obligation to the full extent, but rather annuls decisions and returns cases to the administration. This results in repetitive procedures over the same case.

1.2. Main developments

The Administrative Court has been strengthened by appointing four more judges, which was necessary to tackle the significant backlog of cases.

The inspection oversight law, which should improve the business environment, was adopted by the Parliament on 15/04/2015.

The Law on Whistle Blower Protection was adopted in November 2014¹⁷⁹.

New "Guidelines for creating web presentations of state administration and local self-government" were issued by the Department for Electronic Government in June 2014¹⁸⁰.

¹⁷⁸ Excluding constitutional independent bodies.

¹⁷⁹ The National Assembly of Republic of Serbia adopted the Whistle Blowers Protection Act (Official Gazette No. 128/2014) [Zakon o zaštiti uzbunjivača] ("WBPA") on 25 November 2014. The WBPA entered into force on 4 December 2014 and is applicable from 4 June 2015.

¹⁸⁰ The Ministry of Public Administration and Local Government (MPALSG) Department for Electronic Government guidelines for creating web presentations of state administration and local self-government in 5.0, June 2014.

2. ANALYSIS

The analysis of the accountability system is guided by five Principles of Public Administration. These refer to the various aspects of public accountability; namely, overall organisation of the administration, internal and judicial appeal procedures and rights, internal and independent oversight bodies, and access to public information.

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

Baseline values

The system of accountability for state administration bodies is examined through a mixed set of indicators, both quantitative and qualitative. They cover all areas of accountability, including internal organisation of state administration, oversight of administrative appeals and access to public information, status and activities of independent oversight institutions and administrative courts, parliamentary scrutiny, and public liability. The indicators developed for each Principle relating to accountability aim to assess not only the legislative framework but also its implementation.

Although the organisation of public administration is regulated by law, the proliferation of agencies of which a considerable number report directly to the Government or the Parliament (and not to a specific minister) - makes the system difficult to manage. The provision of public information is in place but, in practice, there is no monitoring of the state of play. Although the numbers show that administrative courts are slowly reducing their backlog, in practice a “ping-pong” between them and the public administration takes place. There is an institution of the Ombudsman, the majority of whose recommendations are implemented, but it encounters problems functioning in practice and challenges to its merit. A system of public liability is in place but, in practice, owing to a lack of data, it is impossible to comment on its effectiveness.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2014	2
	2	Extent to which the right to access public information is enacted in legislation and applied in practice.	2014	3
	3	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	2014	4
	5	Extent to which public authorities assume liabilities and guarantee redress.	2014	1

Serbia
Accountability

Quantitative	1	Number of bodies reporting to the Council of Ministers, to the Prime Minister or to the Parliament.	2014	46 ¹⁸¹
	1	Average number of hierarchical layers in a typical ministry.	2014	5 ¹⁸²
	2	Share of public information requests refused in a given year by the public authorities.	2014	16,4% ¹⁸³
	2	Share of public information requests refused in a given year by the supervisory authority.	2014	9.4 ¹⁸⁴ %
	2	Share of public information requests upheld by the courts.	2014	2,8 ¹⁸⁵ %
	2	Share of public authorities maintaining web sites in line with the regulatory requirements.		Not available ¹⁸⁶
	2	Share of public authorities maintaining a document registry and database.	2014	Not available ¹⁸⁷
	3	Percentage of citizens who have trust in the ombudsman institution(s).		Not available ¹⁸⁸
	3	Share of oversight institutions' recommendations to state administration bodies implemented within two years.	2014	63% ¹⁸⁹
	4	Number of administrative court cases ruled per year per judge.	2014	576 ¹⁹⁰

¹⁸¹ Twenty-one non-constitutional institutions report directly to the Parliament and twenty-five to the Government. Sources: "Oversight function of the National Assembly" on: www.parlament.gov.rs/upload/documents/brochures/Kontrolna%20funkcija%20ENG.pdf.

and "Agencies in Serbia. Analysis and recommendations for reform" USAID, March 2013. <http://www.bep.rs/documents/news/Analysis%20of%20agencies%20in%20Serbia.pdf>.

¹⁸² Minister, state secretaries; sectors; departments or groups; also subordinated groups within departments where they exist. The MPALSG and Ministry of Economy were analysed.

¹⁸³ Data refer only to the ministries. 412 requests were rejected, and 418 failed to respond out of 5 077 received. Source: Annual Report of the Commissioner for: www.poverenik.rs.

¹⁸⁴ Data received from the Commissioner for Information of Public Importance.

¹⁸⁵ I.e., 3 out of 108. Source: the annual report of the Commissioner for 2014 www.poverenik.rs.

¹⁸⁶ Data not available, because it is not collected by the administration.

¹⁸⁷ The percentage of state administration bodies maintaining a document registry and database is estimated at approximately 75% by the Commissioner for Information of Public Importance and Personal Data Protection. However, this has not been checked by the Ministry of Public Administration and Local Self Government as a supervisory body, so it is not given as an official indicator. Source: Commissioner for Information of Public Importance and Personal Data Protection.

¹⁸⁸ No credible report/research was found.

¹⁸⁹ Data refers to Ombudsman only. 115 recommendations were implemented, and 68 not implemented. Information obtained from the Ombudsman.

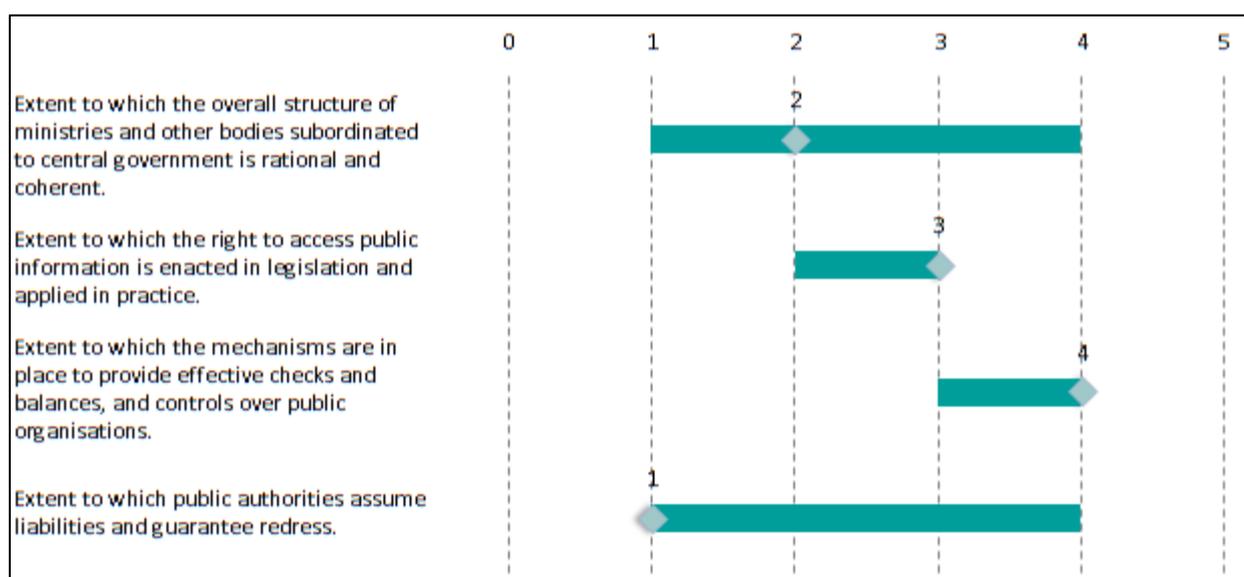
¹⁹⁰ Report of the High Judicial Council and information of the court.

Serbia
Accountability

	4	Number of complaints submitted to the administrative court.	2014	19 423 ¹⁹¹
	4	Percentage of cases changed or returned for verification by the higher court.	2014	14% ¹⁹²
	4	Percentage of citizens who have trust in the court system.		Not available ¹⁹³
	4	Backlog of administrative cases.	2014	24 262 ¹⁹⁴
	5	Share of complaints resulting in payment of compensation.		Not available ¹⁹⁵

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

The Law on Ministries¹⁹⁶ describes in detail the remit and tasks of each ministry as well as the bodies reporting to each ministry; these include oversight tasks. The Law on Agencies¹⁹⁷ determines why and

¹⁹¹ Submitted by the court and 2014 report of the High Judicial Council.

¹⁹² A total of 19 rulings were returned or changed, out of 134. Data obtained from the High Judicial Council.

¹⁹³ No credible report was found.

¹⁹⁴ The Judicial Council; the Administrative Court.

¹⁹⁵ Data was not provided by the administration.

¹⁹⁶ The Law on Ministries (Official Gazette No. 44/2014 and 14/2015).

¹⁹⁷ Public Agency Act, 2005 Official Gazette No. 18/05, 81/05.

how agencies may be established. The State Administration Act¹⁹⁸ regulates the relations between ministries and states that ministries have a supervisory role over subordinated institutions, so in principle the relevant legal framework is in place. However, these legal provisions offer a high degree of discretion to create a variety of administrative bodies with different degrees of autonomy -- ranging from independent bodies within ministries with their own legal personality, to independent regulatory authorities. The Law on Agencies even states in its first article that agencies may also be created, contravening the provisions of this Law. In fact, a large number of executive administrative bodies have been created with a high degree of autonomy. This seriously hampers the ability of ministries to supervise efficiently and effectively, and ensure coherent implementation of policies, because oversight is frequently limited to the legality of the activities. Influencing priority-setting or efficiency gains by ministries, despite the rule set out in the State Administration Act, is limited owing to the legal independence of these bodies and, regarding agencies, the fact that they have their own revenues that do not have to be channelled into the state budget.

The proliferation of agencies is a persistent problem because it makes control over them difficult and indeed makes coherent human resource management (HRM) in public administration impossible. There are more than 100 agencies, including 25 independent regulatory authorities¹⁹⁹. Several have been created in non-accordance with the law on public agencies as permitted by Article 1 of that law, or even by governmental decree²⁰⁰. There was no cost-benefit analysis or impact assessment made when creating these various administrative bodies. The action plan of the current public administrative reform (PAR) strategy includes plans to review the administrative structure and to rationalise the number of agencies. Thus, the indicator value for the structure of ministries and other bodies is 2.

Reporting directly to Parliament are 6 constitutional bodies and 21 other state institutions, including, for example, the Postal Service Agency. This number is too great, for two reasons:

- a lack of capacity of the Parliament to supervise them,
- a blurring of the division of powers between the executive and legislative branches.

Although the general legal framework on the organisation of public administration is in place, there is a wide range of public bodies without clear guidance on which legal form is suitable for which tasks. There are still too many independent agencies reporting to Parliament, the Government or a ministry, which hampers an efficient steering and oversight.

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

The Law on Free Access to Information of Public Importance²⁰¹ is not fully in line with the Principles. The scope of the Law is broad. The scope of exemptions is too large, which is not in line with the Principles. For example, it allows rejection of a public information request when this request is deemed unreasonable or overly frequent, or when too much information is requested. The fees to acquire public information are low and do not present an obstacle.

The independent supervisory authority, the Commissioner for Information of Public Importance and Personal Data Protection, is in place. According to a survey conducted in 2013, the level of awareness about the institution of the Commissioner was low: 46% respondents had no opinion about it²⁰².

¹⁹⁸ State Administration act as of 2005, (Official Gazette No. 79/05, 101/07 and 95/10, last amendment Official Gazette No. 99/14.

¹⁹⁹ Agencies in Serbia, Analysis and recommendations for reform, March 2013 USAID, business enabling project.

²⁰⁰ Agencies in Serbia, Analysis and recommendations for reform, March 2013 USAID p. 9.

²⁰¹ Official Gazette No. 120/04, 54/07, 104/09 | 36/10.

²⁰² A survey "Public Perception of the Rights of Vulnerable Groups in Serbia and Knowledge of the Powers and Perception of the Work of the Protector of Citizens" conducted by CeSID polling agency and the Ombudsman on the representative sample of 1 300 citizens.

Serbia
Accountability

The full impact of the Law on Access to Public Information cannot be assessed. Of the 11 000 institutions covered by the Law, only one-quarter are legally obligated to report to the Commissioner. Of those, only a quarter actually submit a report to the Commission. Around 20% of decisions from the Commissioner are not executed by public bodies²⁰³.

Thus, reliable data on access to information is available only for ministries. Of the 5 077 requests received, the ministries rejected 412, i.e. 8%, and failed to respond to a further 418 requests²⁰⁴.

In 2014 the Commissioner received 5 778 new complaints (of which 816 concerned requests to ministries), and the number of complaints against ministries increased by 23.6% in comparison with the previous year. A further 2 971 cases were deferred from 2013. The Commissioner completed 5 563 cases, and 3 186 were deferred to 2015. In total, the Commissioner decided 28.5 % more cases in 2014 than in 2013, but the already considerable backlog is still increasing. Of the cases completed in 2014, only 6.5% were complaints against decisions; 93.5% were based on administrative silence.

There has been progress in improving access to public information and also in public institutions' providing information proactively. Clear guidelines and requirements for websites are in place, including an obligation to keep them updated. Implementation is still somewhat lacking, however. The Commissioner has insufficient capacity to fully exercise its monitoring role in practice. The Commissioner checked the ministerial booklets²⁰⁵ in autumn 2014 and found that only 1 ministry out of 16 had a complete booklet. Two ministries had no booklets, and the others had incomplete information. In nine ministries, information on public procurement was missing.

The quality of the Law and some problems in monitoring the state of play result in a value of 3 for the indicator on access to public information.

The legal framework regarding access to public information is in place, including the obligation to actively disseminate public information. The main shortcoming of the Law is too broad a scope for possible exceptions. Non-responses from of institutions also remain a challenge. The Commissioner is not able to monitor the state of play related to the implementation of the right to public information. Implementation of the requirement for active data provision varies.

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

The scope of this Principle is broad. The analysis of some other important oversight institutions is performed under other areas of the Principles, for example: anti-corruption under public service and human resource management, and supreme audit institution under public financial management. Hence, the following analysis will focus mainly on the institution of the Ombudsman.

The Parliament exercises control over the executive branch through the use of customary tools such as reporting, questioning and interpellation.

The institution of the Ombudsman is legally independent and reports to the Parliament. Its legal remit is large. For example, it has a right to initiate a procedure *ex officio* and to go to the Constitutional Court. Public authorities have an obligation to report on the implementation of the Ombudsman's recommendations or cite their reasons if they do not follow the recommendations. All Ombudsman reports are published.

In practice, however, there are attempts to limit the remit of the institution by excluding certain activities of ministries²⁰⁶. The budget of the institution was slightly reduced from 2013 to 2014, while the number of complaints has decreased.

²⁰³ Annual Report of the Commission for 2014; www.poverenik.rs.

²⁰⁴ Annual Report of the Commission for 2014; www.poverenik.rs.

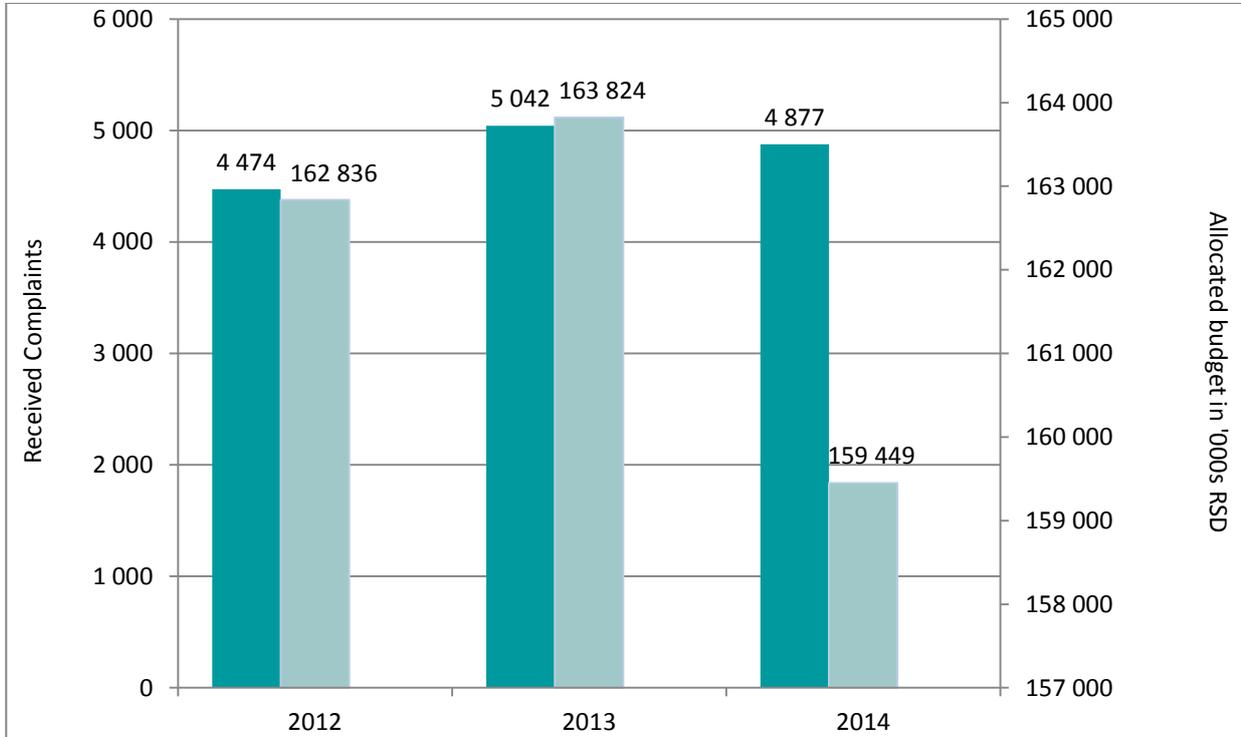
²⁰⁵ The booklet is a set of information that is obligatory to be disclosed on web pages of the institutions.

²⁰⁶ The Parliamentary Committee agreed that the Ministry of Defence and Military Security Agency did not have to submit documents on the request of Ombudsman, following an incident in which Gendarmerie members beat up the

Serbia
Accountability

In addition a lack of action by the Parliament and the Government on some issues, illustrates the difficulties the Ombudsman is facing; for example, the necessary increase of staff to remain a proactive institution, though adopted and supported by the responsible committee of the Parliament, was not put on the agenda of the plenary of the Parliament in time to be considered, which has resulted in an inability to fill vacant positions²⁰⁷.

Figure 2. Budget allocations and number of complaints to the Ombudsman



Source: The Ombudsman reports for 2012-2014.

Another example is that the Government has not yet informed the National Assembly about the compliance with the Ombudsman recommendations, as the Conclusions of the National Assembly require²⁰⁸.

The majority of the Ombudsman recommendations are implemented, as shown in the figure below.

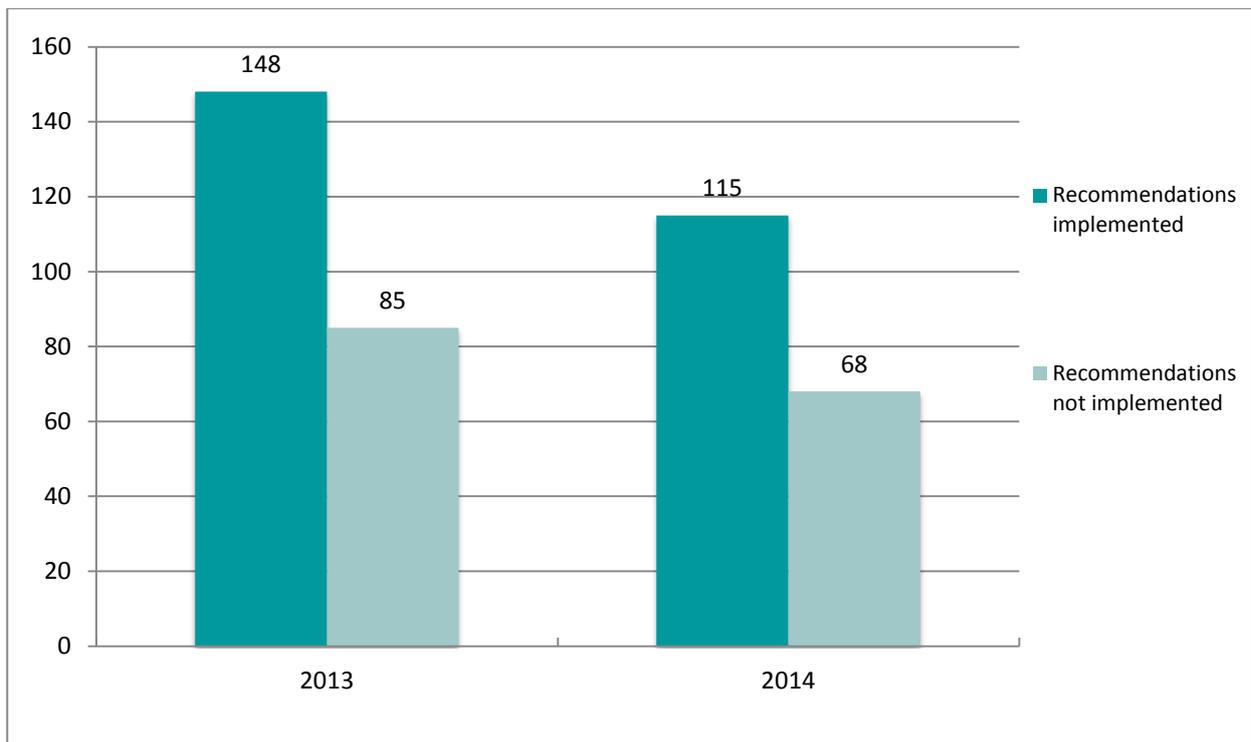
brother of Prime Minister. Source: "Campaign Against Serbian Ombudsman Takes Dangerous Turn", Balkan Insight Analysis, 30 January 2015.

²⁰⁷ Report of the Ombudsman 2014.

²⁰⁸ Information received from the Ombudsman.

Serbia
Accountability

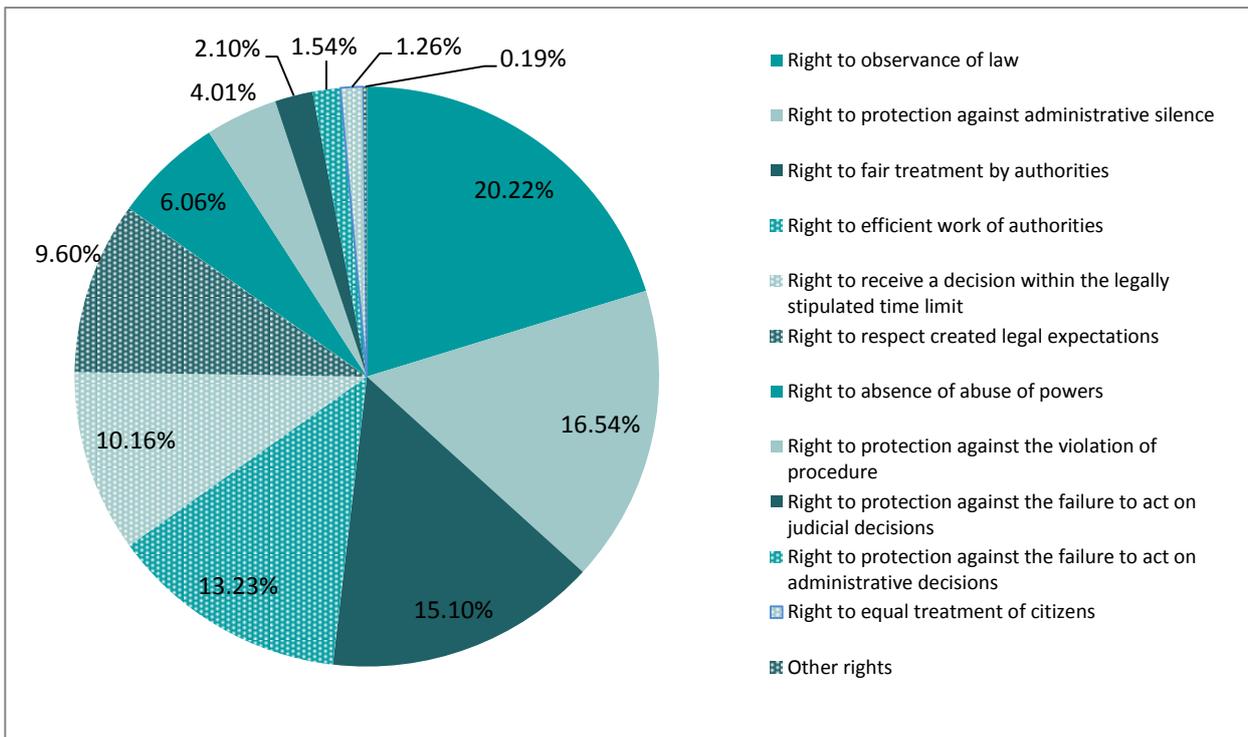
Figure 3. Implementation of Ombudsman’s recommendations



Source: Information from the Ombudsman.

As noted above, most complaints concerned the silence of the administration. In 2014, 2 146 complaints were lodged in the area of “Right to good administration”, representing 44% of all complaints.

Figure 4. Thematic areas of complaints to the Ombudsman



Source: Report of the Ombudsman for 2014.

Serbia Accountability

According to the 2013 survey, the level of trust in the Institution of the Ombudsman was higher (24%) than distrust (16%). The main problem was the low level of awareness: 45% of respondents did not have any opinion about the Ombudsman²⁰⁹.

The legal provisions and the high level of implementation of the Ombudsman's recommendations result in a value of 4 for the indicator on checks and balances.

The Ombudsman in Serbia is an institution with a legally wide remit and authority. The majority of its recommendations are implemented. Surveys show that the level of awareness about this institution is low. Reports in newspapers and statements of non-governmental organisations (NGOs) state that during 2014 and the beginning of 2015, the remit and independence were threatened²¹⁰.

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

Internal administrative appeals are adequately regulated by the current general administrative procedures law. There remain a large number of special administrative procedures, however, which hampers overall transparency in administrative procedures. Another major problem of the Serbian administration is administrative silence, which is also reflected in the complaints structure of the Ombudsman and the Commission for Information of Public Importance.

Serbia provides for only one level of administrative court. As an extraordinary remedy, a complaint to the Supreme Court is possible under very limited circumstances. That only 134 judgements of the administrative court were challenged before the Supreme Court shows the restrictiveness of this extraordinary remedy. It is noteworthy that only 16% of the cases submitted to the Supreme Court resulted in reversed or annulled judgements, evincing the high legal quality of the administrative court judgements.

A separate administrative court has existed since 2010. At its creation, the Court took over more than 18 000 old cases from the special department of the Supreme Court. A new case-management system was introduced in 2012. At the end of 2014, the number of administrative judges increased from 35 to 39, plus the President of the Court²¹¹. Judges are specialised in administrative law, but a specialisation in different administrative areas does not exist. The status of judges meets the general standards. Judges have younger, but experienced, lawyers as support. Not each judge has an assistant, however. In-service training is rare. Legal aid is insufficient, so that it is difficult for the economically vulnerable to file a court case²¹².

Table 1. Backlog and average duration of cases

	2012	2013	2014
Cases pending for more than two years	1 958	1 823	1 225
Average duration of cases (in days)	380	361	479

Source: Data provided by the country.

²⁰⁹ A survey "Public Perception of the Rights of Vulnerable Groups in Serbia and Knowledge of the Powers and Perception of the Work of the Protector of Citizens" conducted by CeSID polling agency and the Ombudsman on the representative sample of 1300 citizens.

²¹⁰ Balkan Insight Analysis 30 January 2015; <http://inserbia.info/today/2015/02/concern-over-allegations-against-ombudsman/>.

²¹¹ Information provided by the Judicial Council and the Administrative Court.

²¹² The EU Progress Report 2014 and the Ombudsman Report 2014 faulted Serbia for not having a modern Law on Free Legal Aid in place.

Serbia
Accountability

The total number of pending cases at the end of the year has fallen slightly, from 24 988 in 2013 to 24 262 in 2014. The number of cases over two years old also declined.

In 2014, 576 cases were handled per judge, which is a rather high number and is achieved only by limiting the inquiry time in each case to a minimum. This practice may reduce the backlog at the end of the year, but it leads to repetitive judicial procedures, which, unfortunately are not reflected in the court statistics but are mentioned as a concern by the Ombudsman, as well as by NGOs.

Serbia's one-instance administrative justice system has a considerable backlog that is being slowly reduced. The main problem remains that the Court rarely applies the inquiry principle to the full extent and limits itself to the annulment of administrative acts instead of providing a final judgement. However, for the time being the Court has no capacity to apply the inquiry principle fully.

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

The principle of public liability is stated in Article 5 of the State Administration Act, and encompasses all damage caused by state authorities. The liability of civil servants is regulated under Article 6 of the Law on Civil Servants. Some special laws also deal with public liability, e.g. in cases of restitution of property and expropriation. In some of these special laws, priority is given to compensation in kind. A general law on state liability does not exist, as is the case in many EU Member States.

As a rule, the wrongdoing of the public administration has to be determined by the administrative court, and then the compensation claim needs to be filed in a civil court. This increases the length of the procedure. The procedure is not only lengthy, but also costly. Given that legal aid is not easily available, this represents an obstacle for a number of plaintiffs. The levels of compensation may differ from court to court, given that no clear rules for the calculation of compensation exist. This lack may be counterbalanced by the fact that all judgements of the higher courts are published, and can and should be used as guidance.

There is limited information available on liability cases. Complaints received by the Ombudsman and followed up by him included examples of non-collection of employers' contribution to a pension fund or serious mistakes made in calculating pensions, to the detriment of the pensioner. Both resulted in a liability to the state, but no systemic actions were taken to remedy the situation for the future.

No information is available on the number of such cases or on whether or not sufficient funds were allocated for compensation and prompt payments.

Public-liability legislation is in place, but lengthy court proceedings -- coupled with a lack of data on the implementation of public liability result in a value of 1 for the indicator on public liability.

The legal framework for public liability is in place. Lengthy procedures and limited availability of legal aid create obstacles for plaintiffs. It is impossible to analyse the functioning of the system in practice, as no data is available.

Key recommendations

Short-term (1-2 years)

- 1) The Commissioner for Information of Public Importance, together with the Government, should ensure that all bodies required to report to the Commissioner do so, to enable effective monitoring of the right to public information.
- 2) Specific training for administrative judges, tailored to their needs, should be introduced.
- 3) Measures should be taken to increase the accessibility of free legal aid (legal and financial).
- 4) The Parliament should ensure that the Government duly co-operates with the Ombudsman.

Medium-term (3-5 years)

- 5) As included in the PAR strategy, the Government should review the status and functioning of agencies to assess the need for their existence as separate entities. This review should be done in co-operation with the Parliament and include agencies subordinated to the Parliament. Bodies reporting directly to the Parliament should be assessed regarding the need, legal and political, to keep this reporting structure.
- 6) Independent bodies within ministries also should be analysed, with the goal of ensuring clear lines of accountability.
- 7) Serbia should consider conducting a feasibility study on the introduction of a second level for administrative courts. To ensure that the law is equally applied across the country and that citizens have equal access and rights, it would be advisable to create a court of second instance, as is the case in most continental EU states. Administrative court(s) should be obligated to use their full jurisdiction by fully applying the inquiry principle and take final decisions, except in cases where they would clearly interfere with the discretionary powers of the administration.
- 8) The Government should review the existing regulations on public liability to ensure that they are:
 - a. clear and easily accessible,
 - b. define a broad scope of public liability, and
 - c. do not jeopardise the effective exercise of the right of action for compensation.

The Government should introduce mechanisms to monitor court cases that result in the liability of the State, with the goal of improving administrative procedures and decisions, and thus reducing public liability cases in the future.



SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Citizen-oriented state administration is one of the main objectives of the Public Administration Reform (PAR) Strategy and the associated PAR Action Plan 2015-2017. Serbia also has an e-government strategy, coupled with an action plan.

An important obstacle to service delivery is that the current legislation provides for too many special administrative procedures that make the entire system less transparent for citizens and hamper modernisation efforts and the development of e-services.

Mechanisms have been introduced to reduce red tape, including the “guillotine” project (lessening administrative burdens by reducing the number of legislative acts or simplifying them), RIA and the use of Standard Cost Model (to measure administrative burdens on business in order to set reduction targets). The Government reports considerable savings owing to the guillotine project. Another example of reducing red tape is the establishment of the Business Registry Agency – a one-stop shop functioning under the “silent consent” principle, whereby if a request is not formally responded to within a certain time limit, the request is deemed to have been approved.

The number of services provided online has increased. Currently, the e-government portal includes 166 services for citizens and businesses for the submission of documents online. Nevertheless, there are still only seven fully electronic services that also enable transactions.

1.2. Main developments

Further e-services have been introduced, and payment of the value-added tax (VAT) via the Internet has been required since 2014²¹³.

The National Interoperability Framework was adopted in January 2014. Guidelines for web pages were updated and upgraded, as were interoperability standards in June 2014²¹⁴.

²¹³ Information received from Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH in Serbia.

²¹⁴ The Ministry of Public Administration and Local Self Government (MPALSG), Department for e-government, interoperability standards list version 1.0, June 2014.

2. ANALYSIS

This analysis covers the four Principles of the service delivery area, which are all covered by one key requirement²¹⁵. For this key requirement, baseline values are provided for the indicators of the Principles' monitoring framework. The Principles cover the policy and practice of service delivery. There is a particular focus on the strategic and legal framework for service delivery and on standards for access to and quality of services. The Principles also refer to procedural guarantees of good administration conduct applicable to service provision.

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

Baseline values

The policy and practice of service provisions are examined through a set of 14 quantitative indicators, complemented by 3 qualitative indicators. Qualitative indicators analyse primarily the implementation of the policies and legislation in the area of service delivery. Most of the quantitative indicators are based on data that the country provides and are subsequently verified for the purposes of this assessment. Selected quantitative indicators are based on the international comparative studies "Doing Business"²¹⁶ and "Global Competitiveness Report"²¹⁷.

A policy on service delivery, including e-services, exists. The Government is developing e-services, and citizens and companies are using them. However, there are still some legal barriers that prevent the public administration from offering more services with transactions online. No coherent policy has been implemented in relation to service quality (which is also reflected by the lack of data for indicators), but some actions have been taken to increase the accessibility of public services.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which citizen-oriented policy for service delivery is in place and applied.	2014	4
	1	Extent to which policy and administrative preconditions for e-service delivery are applied.	2014	4
	2	Extent to which the legal framework for good administration is in place and applied.	2014	2

²¹⁵ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 67-74.

²¹⁶ The World Bank.

²¹⁷ The World Economic Forum.

Serbia
Service Delivery

Quantitative	1	Expenditure on general public services as a share of gross domestic product.	2013	15.9% ²¹⁸
	2	Favouritism in decisions of government officials.	2013	2.4 ²¹⁹
	3	Percentage of users satisfied with public services.	2014	Not available ²²⁰
	3	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	2014	Not available ²²¹
	3	Share of public servants directly engaged in service delivery who received training in the last two years.	2014	Not available ²²²
	3	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application ²²³ .		
		A. Passport	2014	4.8
		B. ID	2014	4.8
	3	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	2014	Not available ²²⁴
	3	Average number of days needed to set up a business.	2014	12 ²²⁵
	3	Average cost of setting up a business.	2014	6.8% ²²⁶
	4	Number of one-stop-shops that provide the services for more than three different public institutions.	2014	1 ²²⁷
	4	Number of services provided through one-stop-shops.	2014	312 ²²⁸

²¹⁸ Economic reform programme.

²¹⁹ According to The World Economic Forum Competitiveness Index. (Scale from 1/minimum to 7/ maximum).

²²⁰ Serbia does not have data covering the whole governmental administration.

²²¹ Serbia does not have data covering the whole governmental administration.

²²² No comparable data is available.

²²³ The number of days. Information provided by the MPALSG.

²²⁴ Serbia does not have data covering the whole governmental administration.

²²⁵ According to the World Bank Doing Business Report.

²²⁶ % of income per capita, according to World Bank Doing Business Report.

²²⁷ E-government portal.

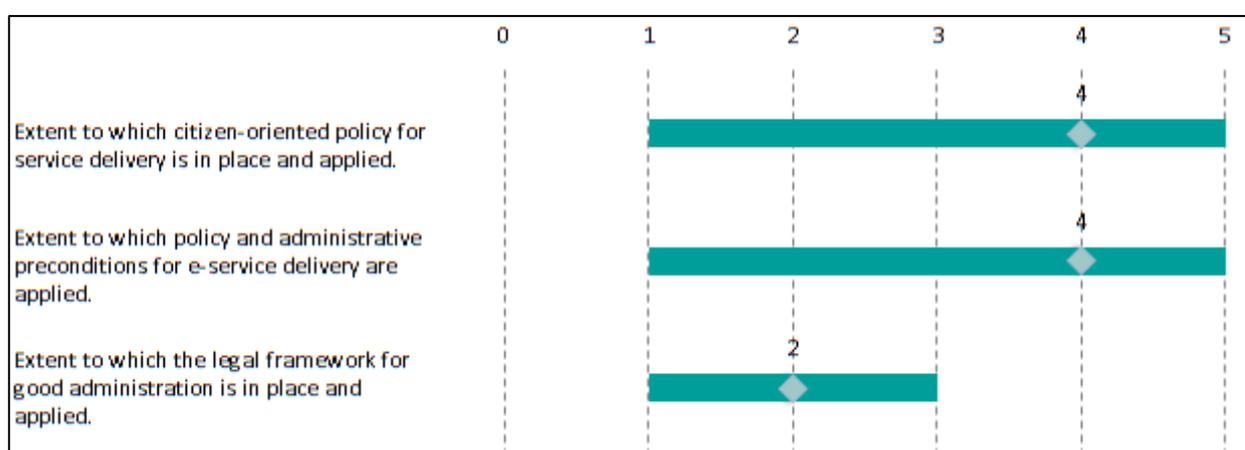
²²⁸ The number relates to the e-government portal. Data provided by the Ministry for Public Administration and Local Self-Government.

Serbia
Service Delivery

	4	Percentage of wheelchair-accessible institutions.	2014	Not available ²²⁹
	4	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	2014	0% ²³⁰
	4	Share of companies that sent their tax declarations using the Internet.	2014	0% ²³¹

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

Citizen-oriented state administration is one of the main objectives in the general PAR Strategy and the PAR Action Plan 2015-2017. The objectives include the reduction of administrative burdens and the improvement of accessibility and transparency of public services. The central responsibility for e-government lies with the Ministry for Public Administration and Local Self-Government (MPALSG), but service delivery is carried out mainly by either local authorities or administrative bodies, which are subordinated to a ministry.

The PAR Strategy and the Action Plan also emphasise the general need to improve the business environment, as that will significantly contribute to economic stability and improved living standard of citizens.

The first regulatory guillotine exercise was carried out in line with the PAR strategy 2008-2011, with some success. According to the Government, 229 proposals for changing or amending regulations were

²²⁹ Serbia does not have data covering the whole governmental administration.

²³⁰ This indicator is about Personal Income Tax annual returns. Although the possibility to send them online exists now, it was not possible for 2014.

²³¹ This indicator is about Corporate Income Tax annual returns. Although the possibility to send them online exists now, it was not possible for 2014.

Serbia Service Delivery

implemented (out of 340)²³²; this resulted in savings for companies of around EUR 167 million per year²³³.

According to the RIA methodology, all new laws should be analysed to ensure they do not create additional red tape (noting the impact on citizens and business). According to Public Policy Secretariat data, the proper assessment was submitted²³⁴ in only 35% of cases where the RIA was required, which shows that RIAs are not fully functioning in practice.

The new Law on inspection supervision, which is targeted at private-sector inspections and was adopted in April 2015, will combine the inspection services of various ministries in one single body. This should lead to better co-ordination and thus to fewer burdens on businesses.

The policy on service delivery is included in strategic documents. Important initiatives were conducted in some areas, which is reflected in a value of 4 for the indicator on citizen-oriented policy for service delivery.

Serbia has had an e-government strategy, coupled with an action plan, since 2009. The latest one, adopted recently, covers the years 2015-2018. The linked action plan covers the years 2015 to 2017 and is aligned with the PAR Strategy. The legislation to allow for e-service delivery is in place and is being applied, e.g. electronic signatures, identification via ID card. The unified government portal opened in 2010. It is not yet fully operational; nevertheless, it is widely used despite the country's Internet penetration rate (2013) of only 57%²³⁵.

New interoperability standards were set in June 2014. Interoperability²³⁶ exists only at the central level, and four registers are interconnected. There is no comprehensive monitoring of whether the registries in the institutions are up to date. For example, the central civil service registry is not fully up to date.

Serbia has a value of 4 in the indicator on policy and administrative conditions for e-service delivery. The issues to be addressed concern mainly the low Internet penetration rate in the country and some remaining obstacles for further development of transactions in e-services.

A policy on improving public services is included in strategic documents. Activities aimed at reducing administrative burdens are oriented mainly towards businesses, with some success.

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

The existing Law on Administrative Procedures has a broad scope, but the numerous special procedures are a major obstacle to swift and transparent administrative procedures²³⁷. Although the current law is lengthy and overly detailed, it defines the key principles of good administrative procedures as well as the right to be heard before a final decision is taken. It obligates institutions to provide reasons for their decisions and to indicate the procedures for administrative redress and an appeal to the court. Every year, some in-service training is offered on the administrative procedures law. The indicator based on the extent to which the legal framework for good administration is in place has a value of 2, mainly because of too many special administrative procedures limit in practice the remit of general law on administrative procedures.

²³² According to data received from Public Policy Secretariat of the Republic of Serbia.

²³³ There were also some initiatives on red-tape reduction at the local level. For example, a USAID project dealing with improving the business environment revealed that there were around 400 non-tax burdens, registration charges, land development charges, etc., and already 139 of these have been eliminated. A standard cost model study was carried out in this context.

²³⁴ Data provided by the Public Policy Secretariat.

²³⁵ According to UN statistics for 2013: <http://data.un.org/>

²³⁶ Statement of the Ministry for Public Administration and Local Self-Government, department for e-government.

²³⁷ The "optimus" project identified 635 business-related administrative special procedures in its project on improving the business environment in 6 Serbian cities.

Although the basic principles for good administration are set by law, these are not always observed by the administration. This is reflected in the high number of complaints to the Commissioner of Free Access to Information and to the Ombudsman, and confirmed by the fact that of the complaints pursued with by the Ombudsman (2 007 in 2014), 90% were deemed justified. One of the main issues remains the non-response of the administration.

The Ombudsman developed a Code of Good Governance in 2012, but the Parliament did not see the adoption of it as being within its remit. Nor has the Government adopted the Code.

According to the Global Competitiveness Report, favouritism exists to a considerable degree in Serbia.

The principles of good administration are defined by the law. They are not always implemented by the administration, however, as evidenced by the high number of citizen complaints. The multitude of differing procedures considerably reduces the application of the general administrative procedures law and makes requests and appeals to the administration difficult and cumbersome.

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

Serbia's competitiveness²³⁸ was stagnant over the past three reporting cycles of the Global Competitiveness Report, at 3.9 out of 7, and ranking 94 out of 144 economies. According to the World Bank Doing Business report, Serbia's competitiveness fell by 14 ranks in 2014. The PAR Strategy 2015-2018 and Action Plan 2015-2017 are addressing the persistent lack of improvement of the business environment. The average time to establish a business is 12 days, about three days longer than the OECD average (and 0.5 days longer than in 2013). The cost is double the OECD average, but there is no minimum capital required²³⁹. The average time needed for issuing a passport or an ID has decreased from 5.5 days in 2012 to 4.8 days in 2014²⁴⁰.

The PAR Strategy 2015-2018 and PAR Action Plan 2015-2017 foresee some quality assurance activities regarding the delivery of public services. The MPALSG is not yet monitoring the implementation of these quality assurance activities because the PAR Action Plan has been adopted only recently. Quality assurance tools are used by some agencies and local governments, but not by ministries. No exact data is available on the number of institutions using these tools. User satisfaction surveys are not carried out on a regular basis.

According to Human Resources Management Service statistics, in 2013 and 2014 training linked to service delivery was provided mainly in the area of human rights and data protection (for 84 participants altogether) and in business communication (56 participants altogether). In addition, training was delivered on public relations and rules of written communication, as well as on anti-corruption, conflict management and time management, which are also linked to service delivery.

Some activities aimed at improving the quality of public services are contained in the PAR Action Plan. Quality insurance tools are not implemented currently in the state administration and customer satisfaction surveys are not conducted on a regular basis. Some improvements for citizens are in place; for example regarding the introduction of an appointment for services and a short waiting time to obtain a passport or ID.

Principle 4: The accessibility of public services is ensured.

The PAR Strategy and PAR Action Plan 2015-2017 address the accessibility of services. Serbia is making efforts to increase the accessibility of public services, not only by increasing the number of services accessible via the e-government portal, but also by providing a legal framework to ease the burdens on disabled customers.

²³⁸ The Global Competitiveness report 2014-2015, Global Economic Forum.

²³⁹ Doing Business 2015: Going Beyond Efficiency -- Economy Profile 2015 Serbia (2014), p. 17.

²⁴⁰ According to data provided by the MPALSG.

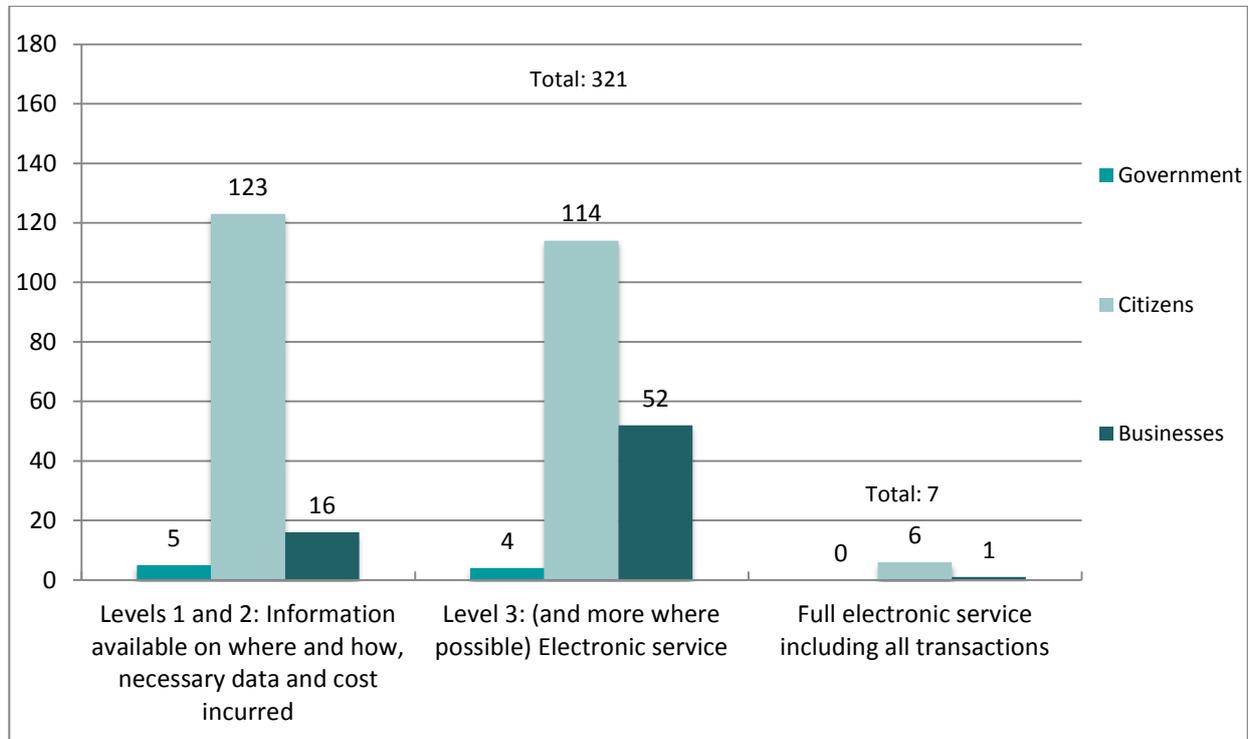
Serbia
Service Delivery

Physical one-stop shops exist to a limited degree in local authorities, mainly for businesses but also as “service units” for citizens²⁴¹.

E-services are numerous, and the acceptance rate of citizens is increasing. There are 321 e-services, of which 243 are for citizens and 69 for businesses²⁴² – though only a tiny minority are transactional.

Figure 2. The number of services on the e-government portal in 2014

By the level of sophistication and type of users (citizens, businesses, government)



Source: Data provided by the Ministry for Public Administration and Local Self-Government.

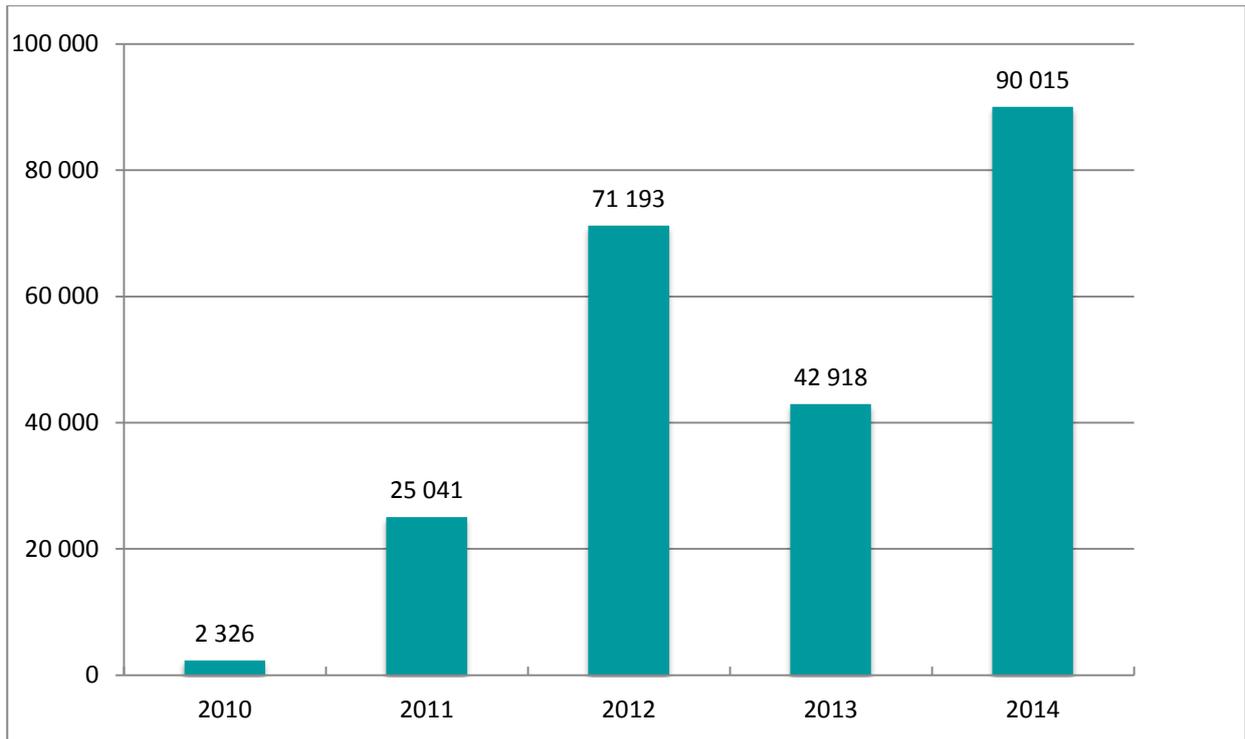
The introduction of some full transaction services has been postponed, as they require legislative changes. A positive development is that the Level 3 e-services are more numerous than those of the Level 1, where only information about services is available on the e-government portal. In e-services, the name of the staff working on the request is disclosed, so that after the legally set time limit of 30 days a targeted complaint can be submitted if necessary. The number of e-government portal users is increasing sharply. For example, as of February 2015, citizens used the e-portal to extend more than 800 000 vehicle registrations and to replace more than 6 000 driver’s licences.

²⁴¹ Information given by the Ministry for Public Administration and Local Self-Government, department for local self government and department for electronic government.

²⁴² As for February 2015.

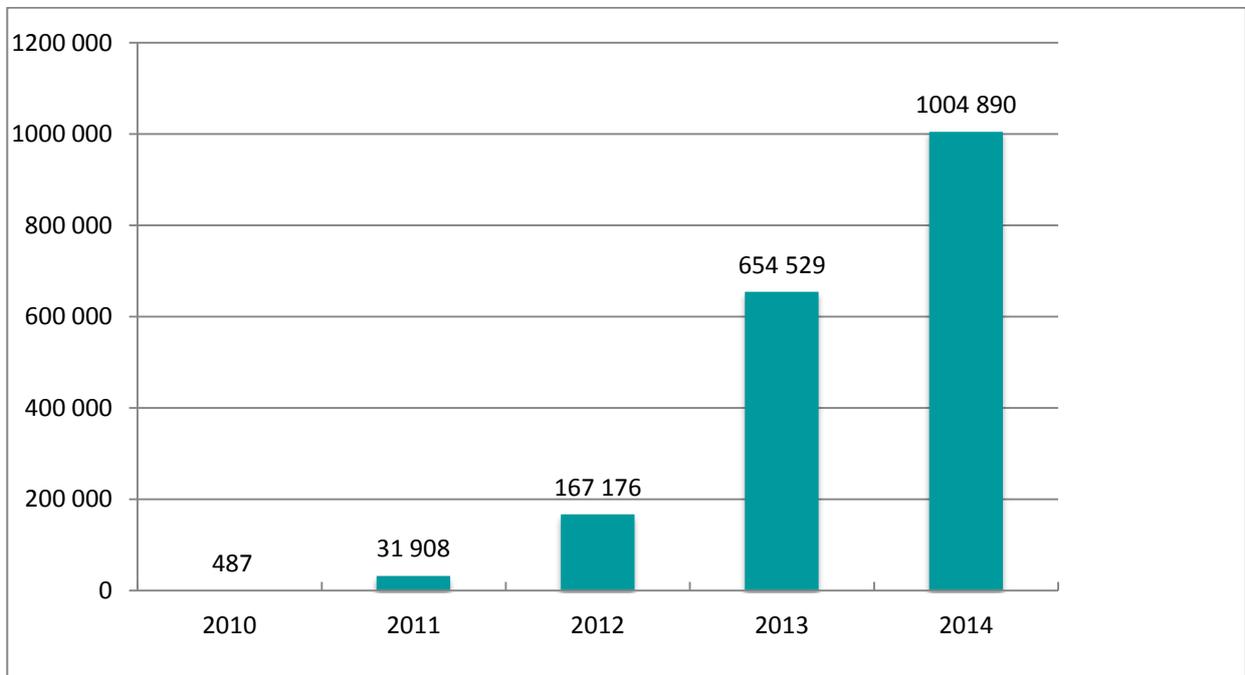
Serbia
Service Delivery

Figure 3. The number of users of the e-government portal in Serbia



Source: Data provided by the Ministry for Public Administration and Local Self-Government.

Figure 4. The number of claims filled via the e-government portal in Serbia



Source: Data provided by the Ministry for Public Administration and Local Self-Government.

The tax administration started offering the possibility to send personal and corporate income tax returns online from 1 April 2015. The sending of VAT returns online has been obligatory since 2014.

Serbia Service Delivery

Serbia ratified the Convention on the Rights of Persons with Disabilities²⁴³ in 2009. The Law on Prevention of Discrimination against Persons with Disabilities was adopted in 2006²⁴⁴ and the Law on the Prohibition of Discrimination in 2009²⁴⁵. The main pieces of legislation containing provisions on accessibility standards are the Law on Planning and Construction²⁴⁶ and the new regulation on technical standards of accessibility from February 2015²⁴⁷ (replacing the 2012 regulation). Also, the new media legislation from 2014 introduces standards on the accessibility of the public media content²⁴⁸. Exact data regarding the implementation of these standards in the administration is not available. However, some reports show a low level of implementation of the Convention and associated legislation, i.e. the accessibility of public buildings and services, reported in *The Special Report on Discrimination against Persons with Disabilities*²⁴⁹ and *The Report on Accessibility of the Commercial Buildings of State Organs*²⁵⁰ of the Equality Commissioner, both from 2013.

The Ministry of Labour and the Equality Commissioner have set and monitor special standards for the accessibility of disabled persons. The number of users of e-services has increased significantly, as has the number of e-services. Nevertheless, a vast majority of e-services still do not offer the possibility to conduct transactions.

Key recommendations

Short-term (1-2 years)

- 1) The Government should compile an inventory of special administrative regulations and analyse these, with the goal of limiting their number and scope.
- 2) The Government should further increase the number of e-services that offer transaction possibilities for citizens and businesses.
- 3) The Government should introduce mechanisms to measure citizens' satisfaction with governmental services in all state institutions.

Mid-term (3-5 years)

- 4) The Ministry of Public Administration and Local Self-Government should promote the implementation of quality assurance tools in administrative bodies tasked with delivery of key public services to citizens.

²⁴³ The Law on Ratification of the Convention on the Rights of Persons with Disabilities (Official Gazette No. 42/2009).

²⁴⁴ Official Gazette No. 33/2006.

²⁴⁵ Official Gazette No. 22/2009.

²⁴⁶ Official Gazette No. 72/2009, 81/2009 - changed, 64/2010 – CC decision, 24/2011, 121/2012, 42/2013 - CC decision, 50/2013 - CC decision, 98/2013 - CC decision, 132/2014 i 145/2014.

²⁴⁷ The Rulebook on the Technical Standards of Planning, Projects and Construction of Objects which Assure Unconfined Movement and Access for Persons with Disabilities, Children and Older Persons (Official Gazette No. 22/2015).

²⁴⁸ The Law on the Public Media Services, The Law on Public Informing and the Media and The Law on Electronic Media (Official Gazette No. 83/2014).

²⁴⁹ Available in Serbian on pp. 51-58: www.ravnopravnost.gov.rs/images/files/Posebna%20izvestaj%20-%20osobe%20sa%20invaliditetom%20FINAL%209.5.2013.pdf.

²⁵⁰ Available on: http://ravnopravnost.gov.rs/images/files/Izvestaj_o_pristupacnosti_poslovnih_zgrada_drzavnih_organa.pdf.

6

Public Financial Management

PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS IN 2014-APRIL 2015

1.1. State of play

The Government's main priority is to stabilise the public finances. The Government's Fiscal Strategy 2015-17 is founded on the delivery of (i) a 10% reduction in pay and pensions, (ii) a public sector pay freeze until 2017, (iii) job cuts of about 5% per annum over the next three years, and (iv) restructuring state-owned enterprises (SOEs). The Fiscal Strategy aims to stabilise the general government debt to gross domestic product (GDP) ratio at about 79% in 2016/17.

The 2015 Budget was submitted to the Parliament on 17 December, which was two days after the Parliament was supposed to vote on it. The supporting documentation that the Government provided to the Parliament in support of the Budget is not detailed. Overall, this shows that the commitment to transparency on the Budget is weak.

There is no current policy plan for developing Public Internal Financial Control (PIFC). Most Budget users have not appointed a manager in charge of financial management and control (FMC), have not established a working group to deal with the introduction and development of FMC, and have not adopted plans for the implementation of FMC. There is also low awareness of the importance of internal audit (IA), and the independence of IA in public institutions is compromised by internal auditors' having to carry out other activities that are outside the IA function.

The Supreme Audit Institution (SAI) publishes audit reports that meet national and international auditing standards, but the percentage of recommendations implemented by auditees, at 63% of recommendations made in 2013, is low compared with the 100% acceptance rate of the validity of the recommendations.

The regulatory framework²⁵¹ (including public-private partnerships (PPPs) and concessions) is largely aligned with the *acquis* on public procurement. Some discrepancies remain, however, including e.g. the definition of a contracting authority, a few exemptions from the Public Procurement Law (PPL), the retention of the qualification system and national preferences. The system suffers from very detailed and prescriptive regulations. For example, the obligation to prepare extensive explanations of the procurement plans as well as a lack of flexibility of the plans places an excessive administrative burden on the contracting authorities.

The institutional framework is established, and functions are clearly allocated. Nevertheless, an excessive number of obligations prescribed mainly to the Public Procurement Office (PPO) results in a lower-quality performance.

Most contracts are awarded in an open procedure. However, the introduction of the PPL in 2013 did not improve the level of competition. The average number of bids submitted in public tenders has not increased since 2012.

1.2. Main developments

The 2015 Budget is the first to be presented on a programme budget basis, but this does not extend to creating strong links between allocated expenditure and policy objectives. There is no emphasis on results yet.

The SAI staffing levels increased from 179 in 2013 to 223 in 2014. This enabled the SAI to adopt more audit reports, up from 56 in 2013 to 135 in 2014, including the SAI's first performance audit report.

²⁵¹ The Public Procurement Law, Official Gazette 124/12, with later amendments (in force from April 2013),
The Law on Public-Private Partnership and Concessions, Official Gazette No. 88/11.

Serbia
Public Financial Management

At the end of March 2015²⁵², the Ministry of Finance (MoF) adopted a by-law requiring public administration institutions to assess the impact of legislation, and strategic and other documents on the Budget. This regulation gives comprehensive guidance on how to develop and present the estimated financial impact for all types of policy documents. It is in force and will be followed by public institutions from April 2015.

The provisions on domestic preferences in the Public Procurement Law were amended (in force from February 2015), reducing the rate of preference for domestic tenderers to 5% each from 20% for goods and from 15% for services and works.

New pieces of secondary legislation were adopted, namely the Regulation on the procurement procedure in the field of defence and security²⁵³, the Rules on the professional training program and the method of examination for public procurement officers²⁵⁴, the Regulation on establishing common procurement vocabulary²⁵⁵, and the Ordinance on the contents of the decision on joint implementation of the procurement procedure²⁵⁶.

On 30 October 2014, the Government adopted the Strategy²⁵⁷ for the Development of the Public Procurement System in the Republic of Serbia for 2014-2018 (the Strategy), accompanied by an Action Plan²⁵⁸. The Strategy and the Action Plan are now being implemented.

²⁵² By-law on the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget (110-00-171/2015-03, 31 March, 2015).

²⁵³ Official Gazette No. 82/2014.

²⁵⁴ Official Gazette No. 77/2014.

²⁵⁵ Official Gazette No. 56/2014.

²⁵⁶ Official Gazette No. 44/2014.

²⁵⁷ [Public Procurement Development Strategy of the Republic of Serbia.](#)

²⁵⁸ <http://www.ujn.gov.rs/en/news/story/270/ACTION+PLAN.html>

2. ANALYSIS

The analysis covers the 16 SIGMA Principles of the public financial management area, grouped under 8 key requirements²⁵⁹. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover an entire budget cycle and address all aspects of the expenditure side of the budget, including formulation, execution, reporting, financial management and control, and external audit.

2.1. Key requirement: The Budget is formulated in compliance with transparent legal provisions and within an overall multi-annual framework, ensuring that the general government budget balance and debt-to-gross domestic product ratio are on a sustainable path.

Baseline values

The development of both the multi-annual budget framework and annual Budget is considered using three qualitative and five quantitative indicators, as defined in the Principles of Public Administration.

In Serbia, the budget is formulated within a multi-annual framework and in accordance with the legal provisions. It is not based on realistic assumptions, however, with revenue undershooting targets and expenditures being higher than projected. There were general government deficits of 6.4%, 5.3% and 7.9% in 2012, 2013 and 2014 respectively, and the debt to GDP ratio rose quickly in the same period from 56.2% at the end of 2012 to 70.9% at the end of 2014. Also, the deadline for submission to the Parliament is not respected. This is reflected in both the quantitative and qualitative indicators.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	MTBF strength index.	2014	2
	1	Fiscal rules strength index.	2014	1
	2	Extent to which the annual budget proposal includes full information at the time of presentation to the Parliament.	2014	1
Quantitative	1	Percentage differences between the planned budget revenues in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-11.5%
	1	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-5.0%
	2	General government budget balance.	2014	-7.9% ²⁶⁰

²⁵⁹ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 18-40.

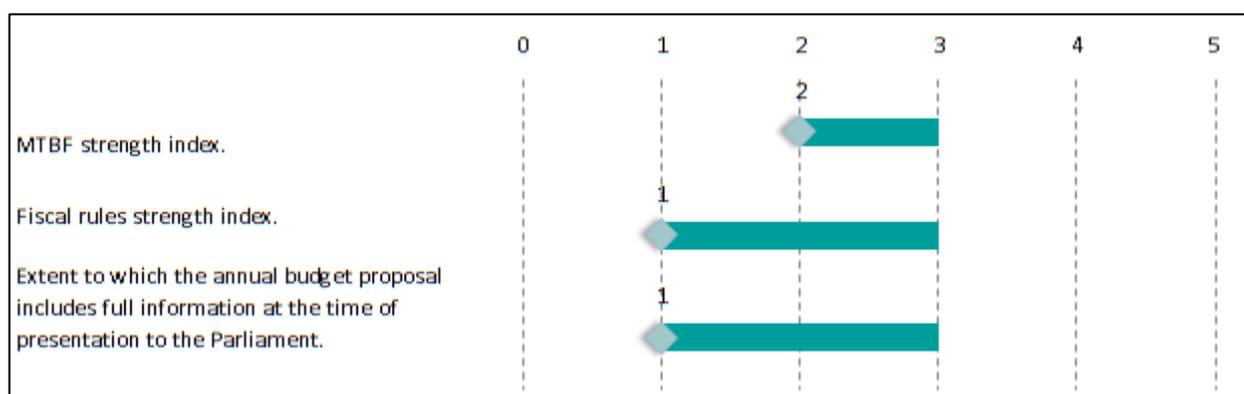
²⁶⁰ See page 34 of the National Economic Reform Programme 2015-2017:
www.mfin.gov.rs/UserFiles/File/dokumenti/2015/NERP%202015%20ENG%20za%20WEB%2018_3_2015.pdf.

Serbia
Public Financial Management

	2	Percentage differences between the planned budget revenues (as approved in the Budget) compared to the outturn of the latest available year.	2014	-6.3%
	2	Percentage differences between the planned budget expenditure (as approved in the Budget) compared to the outturn of the latest available year.	2014	-10.7%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

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

The Government publishes its three-year Fiscal Strategy annually. The Strategy covers the whole of government, and the budgetary framework is co-ordinated by the Ministry of Finance (MoF) with input from line ministries and subordinated bodies. It contains macroeconomic projections, as well as fiscal projections that are based on existing government policies. The Fiscal Strategy is founded in the Budget System Law²⁶¹, which requires the Government to seek the opinion of the Parliament (though the Parliament does not approve it) and the Fiscal Council. The Fiscal Council, which exists under the Budget System Law²⁶² and is accountable to the Parliament, is active and regularly issues opinions on the Government's fiscal policies.

However, there are no clearly defined monitoring and enforcement procedures. It is clear from the differences between actual and projected revenues and expenditures that the fiscal projections are indicative rather than binding. For 2014, the actual outturn for expenditure was 5.0% below the projected 2014 figure in the Fiscal Strategy 2013-2015; the actual outturn for revenue was 11.5% below the projected 2014 figure in the same Fiscal Strategy. There are no long-term capital-expenditure projections, and details are lacking about capital expenditure in general, although the Strategy contains a figure for total capital expenditure. The Strategy also contains a list of fiscal risks,

²⁶¹ The Budget System Law, Article 27c to 27f.

²⁶² The Budget System Law, Article 92.

though not in any significant detail, and there is no sensitivity analysis that would show the likely direction of public finances should the major variables be less positive. The Strategy covers ministries, but not strategic initiatives and programmes, so it is not possible to say that the strategic plans of individual organisations are consistent with the medium-term budgetary framework (MTBF). For these reasons, the value for the indicator on the MTBF strength index is 2.

There are fiscal rules which require that the budget deficit be limited to 1% of GDP over the medium-term and that the debt to GDP ratio not exceed 45% of GDP. Neither rule has been respected nor enforced in recent years. The Government has established a plan to stabilise public finances in the Fiscal Strategy 2015-17. The Strategy contains a plan for structural reforms, but these will be difficult to achieve in the prevailing fiscal climate. Although there are risks to the objectives being realised given the overly optimistic macroeconomic projections that have underpinned previous Fiscal Strategies, the Strategy shows that the fiscal challenges are being recognised²⁶³. Nevertheless, owing to large deficits since 2012 and a debt ratio that rose rapidly between 2012 and 2014, the value for the indicator on the fiscal strength index is 1.

There is a medium-term budgetary framework, but with such variations in expenditure there is no evidence to suggest that all budget organisations operate within the framework. An examination of projections in the most recent Fiscal Strategies supports concerns that the current Fiscal Strategy, which sets ambitious targets for fiscal stabilisation, is also founded on overly optimistic assumptions.

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

The Budget System Law provides for a budget that is transparent, comprehensive in scope and formulated within a timetable that allows the key actors to carry out their roles (although the six-week period that the Parliament has for its consideration of the Budget is about half of the three months that the OECD recommends²⁶⁴). It also requires that the financial plans of the social insurance funds be presented as part of the Budget²⁶⁵. There is a top-down ceiling within which the budget is framed, in accordance with details that the MoF establishes in an annual circular. The macroeconomic assumptions and general government projections are published, as is a list of fiscal risks (all are in the Fiscal Strategy). The published Budget separates capital and current expenditure, and pay and non-pay expenditure, for each public institution.

In practice, however, there are several weaknesses:

- 1) The 2015 Budget was presented to the Parliament on 17 December, which was not only after the 1 November deadline but was also two days later than the 15 December deadline for the Parliament's adoption of the Budget.
- 2) The significant differences between budgeted and actual revenues and expenditures call into question whether the Budget is founded on realistic projections. This is shown in Figure 2 below.
- 3) The Budget users do not provide the MoF with information on contingent liabilities, details of longer-term capital costs, or an assessment of the effects of new policies and investment priorities even though this is required by law²⁶⁶. Likewise, there is no separation of the costs of existing and new policies in the Budget, although this also is required by law²⁶⁷.

²⁶³ The Fiscal Council opinion on the Strategy is that its projections are overly optimistic, but it welcomes the key measures as a step towards bringing the public finances onto a sustainable path.

²⁶⁴ Article 1.1 of the OECD Best Practices for Budget Transparency.

²⁶⁵ The Budget System Law, Article 32.

²⁶⁶ The Budget System Law Article 35.4; the introduction of the By-law on the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget (110-00-171/2015-03, 31 March, 2015), which provides guidelines on how to assess the impact of new policies may improve this although it is too early to assess its effectiveness.

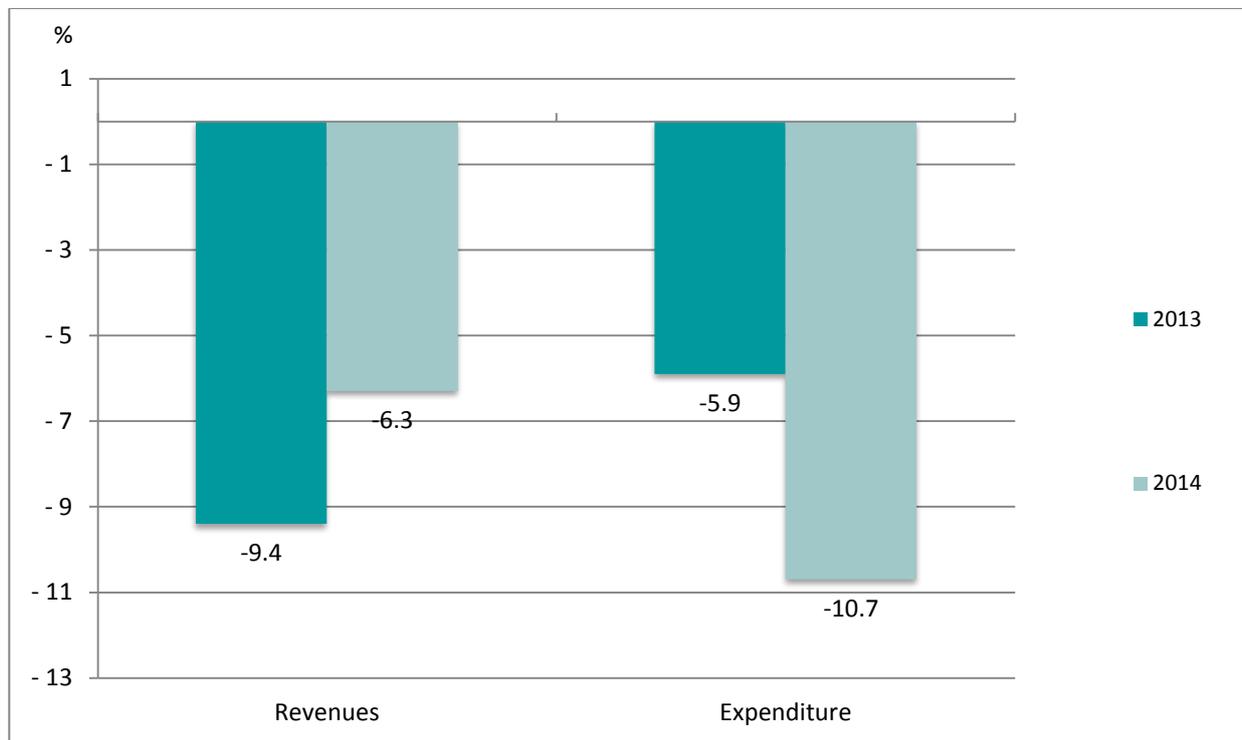
²⁶⁷ The Budget System Law, Article 31.1.

Serbia
Public Financial Management

- 4) Capital-investment projects are not subject to cost-benefit analyses or prioritised accordingly.
- 5) Comparative information for the current year is not provided. There is no linkage between Government policy objectives and the Budget, no non-financial performance information, and no long-term projections of total revenue and expenditure.
- 6) National co-financing parts for Instrument for Pre-accession Assistance (IPA) programmes are shown at the expenditure line item level for individual budget users although the IPA funding is not, which means that a significant proportion of public expenditure is being omitted from the annual Budget²⁶⁸.

These weaknesses mean that the value for the indicator on the extent to which the annual budget proposal contains full information when presented to the Parliament is 1.

Figure 2. General government revenue and expenditure
(percentage difference between the Budget forecast and outturn)



Source: Fiscal Strategy 2012-2014 (2013 forecast), Fiscal Strategy 2013-2015 (2014 forecast), Public Finance Bulletin December 2013 (2013 outturn), Public Finance Bulletin December 2014 (2014 outturn).

The Budget is not based on accurate, realistic projections. There is no rigorous analysis of the users' Budget requests, and it contains minimal explanatory detail. Failure to respect the deadline for submitting the Budget to the Parliament suggests that the Parliament's role is not strong.

Key recommendations

Short-term (1-2 years)

- 1) The Fiscal Strategy should link Budget organisations' strategic and operational plans to the Government's priorities, within a medium-term expenditure framework, in order to improve the likelihood of the fiscal consolidation targets in the Fiscal Strategy being met.

²⁶⁸ It should be noted, however, that the total funding available to each individual Budget user is shown in the annual Budget, beside the national co-financing element.

Serbia
Public Financial Management

- 2) The MoF should develop proposals for the Government regarding the establishment of credible fiscal rules including corrective action to be taken in the event of the rules being breached.
- 3) The submission deadline for the Budget to be sent to Parliament should be respected, and the Parliamentary Committee on Finance, State Budget and Control of Public Spending should develop its analytical capacity in order to improve Parliamentary oversight.
- 4) The MoF should draft guidelines for better capital investment project appraisal procedures, and more details on capital investment projects should be published in the Fiscal Strategy in order to improve transparency.
- 5) The MoF should ensure that the expenditure side of the Budget shows IPA-funded expenditures on a gross basis.

Medium-term (3-5 years)

- 6) The MoF should ensure that performance information is included in the Fiscal Strategy and other budget planning documents.

2.2. Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.

Baseline values

The execution, monitoring and reporting of public finances is examined under six indicators, four of which are quantitative and two qualitative.

Both cash and debt are managed centrally in Serbia, in line with legal provisions. However, the planning of cash requirements and monitoring of in-year expenditures is weak. Monthly profiles are not published and, although they are used internally, the variations between projections and actual expenditures in individual months are volatile. Cash planning is on a month-to-month basis, with monthly allocations being decided on the 15th of the preceding month. Transparency is poor because profile data is lacking and because much of the annual information provided in financial documentation is difficult to compare from year-to-year. This is shown by the qualitative indicators, which reflect weak in-year monitoring in particular.

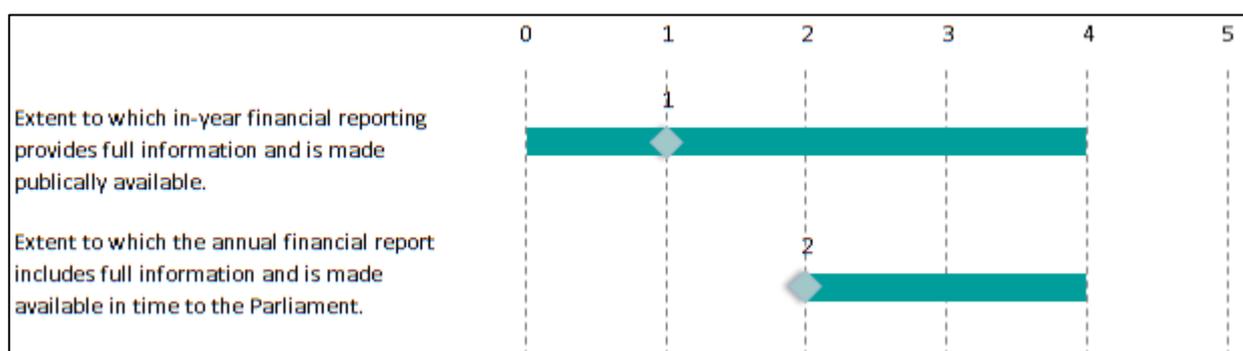
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which in-year financial reporting provides full information and is made publicly available.	2014	1
	5	Extent to which the annual financial report includes full information and is made available in time to the Parliament.	2014	2

Serbia
Public Financial Management

Quantitative	3	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	2014	1.9% ²⁶⁹
	3	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	2014	Not available ²⁷⁰
	4	Public-sector debt servicing costs as a share of gross domestic product.	2014	2.9%
	4	Difference of public-sector debt level outturn from target.	2014	7%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: The Ministry of Finance, or authorised central treasury authority, centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

The disbursement of funds is centrally controlled by the Treasury through a treasury single account, in accordance with the Budget System Law²⁷¹. The Treasury is responsible for keeping a record of all transactions executed from this account. The Treasury ledger maintains a full record of all payments according to an organisational, functional, programme, three-digit economic, six-digit economic and source-of-financing classification. This means the system incorporates adequate coding structures to facilitate detailed analysis of expenditure and income if such information is requested.

The monthly *Public Finance Bulletin* published by the MoF shows figures for the main elements of public expenditure and for revenues of the executed Budget, but it does not provide figures for individual Budget organisations. Direct Budget users must provide the Treasury with an estimate of monthly cash requirements by the 15th of the preceding month. Cash planning, therefore, is on a month-to-month basis. The Treasury does not publish a monthly profile for the upcoming year,

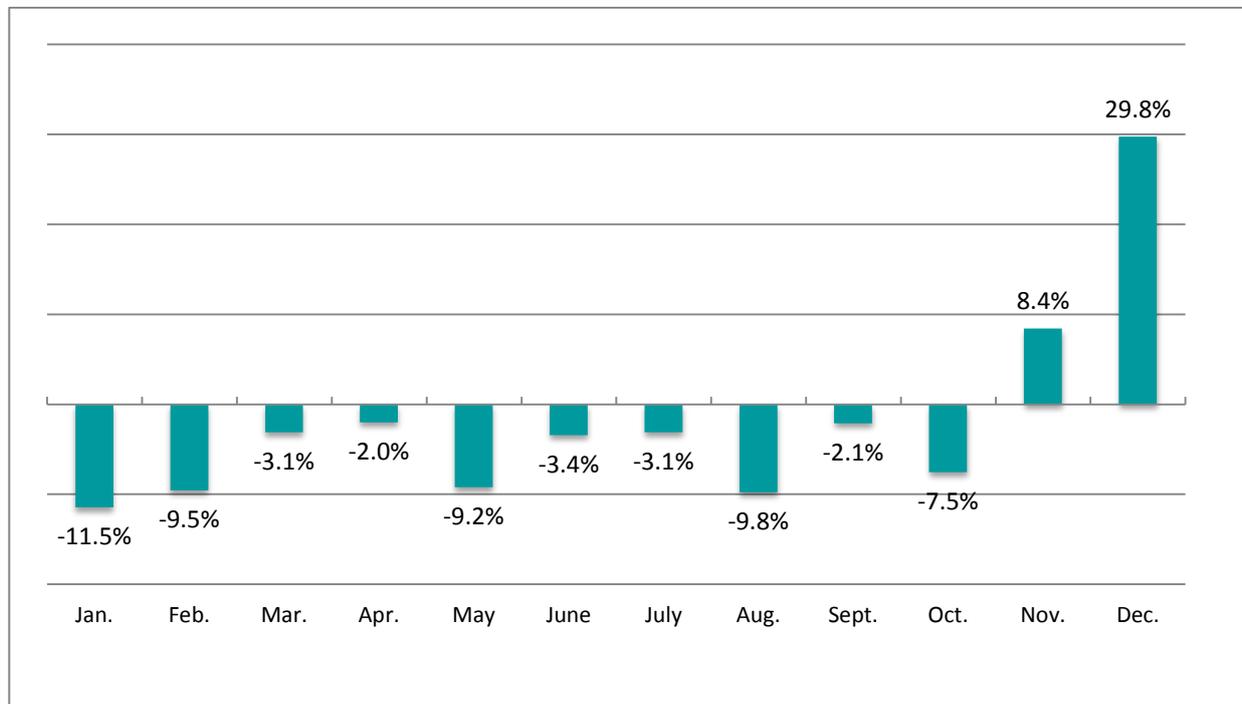
²⁶⁹ The average variation of 1.9% is for expenditure. This does not show that the variations for individual months are volatile. For example, expenditure in January 2014 was 11.5% less than projected but in December 2014, expenditure was nearly 30% more than projected.

²⁷⁰ This was requested but could not be provided.

²⁷¹ The Budget System Law, Article 9.

although this information is available. For the latter months of the year, deviation from the original profile can be significant. This is clear from Figure 4 below, which shows that spending was lower than planned in every month from January to October but was greater than expected in November and December. The near 30% difference between the original profile and the actual outturn suggests that expenditure was incurred simply to use up resources before the end of the year.

Figure 4. Variation of difference between monthly planned expenditure and actual expenditure in 2014 (%)



Source: Ministry of Finance.

SOEs are not required to get prior approval from their controlling body before undertaking fiscal risk. These enterprises present a serious risk to the public finances and their restructuring is considered an essential element of the Government's fiscal consolidation programme, as outlined in the Fiscal Strategy 2015-17. It is too early to assess what effect this new policy announcement will have in practice.

The Stand-By Arrangement agreed with the International Monetary Fund (IMF)²⁷² includes a requirement to eliminate existing arrears and prevent accumulation of new arrears. Although the IMF had estimated that in 2012 these arrears stood at 0.4% of GDP, or about SRB 13 billion, the authorities were unable to provide any update on this figure. Nevertheless, arrears are being addressed. Under the Law on Late Payments in Commercial Transactions, late payments²⁷³ and compensatory payments²⁷⁴ in the event of late payments are both clearly defined. The MoF publishes details of outstanding payments on its website, and this report is updated daily²⁷⁵.

Cash liquidity is ensured through the Treasury Administration using the treasury single account. However, cash planning is on a month-to-month basis. Until the announcement of the IMF Stand-By Arrangement, there was no systematic monitoring of accumulated arrears and, although the MoF publishes details of outstanding payments on its website, an accumulated figure is not published.

²⁷² Agreed by the International Monetary Fund Executive Board on 23 February 2015.

²⁷³ The Law on Late Payments in Commercial Transactions, Article 4.

²⁷⁴ The Law on Late Payments in Commercial Transactions, Articles 5 and 7.

²⁷⁵ www.mfin.gov.rs/pages/article.php?id=9503.

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.

The Public Debt Law sets out the legal framework for debt management. It defines public debt and establishes the responsibilities of the key government bodies, including the Ministry of Finance and the Debt Administration, the latter of which carries out central government borrowing. It also limits the borrowing powers of local government and social-security funds so that they may borrow only with the permission of the Government. Local government borrowing is monitored monthly and reported in the *Public Debt Administration Monthly Report*²⁷⁶. The SAI audits the Public Debt under Article 9 of the SAI Law²⁷⁷.

The Debt Administration publishes a debt-management strategy that includes an annual risk and sensitivity analysis. This is also included in the Fiscal Strategy, which sets the framework for the annual Budget. However, the projected debt limit was exceeded in 2012, 2013 and 2014. The debt-to-GDP ratio rose from 29.2% at end-2008 to an estimated 70.9% at end-2014, despite the fiscal rule²⁷⁸ stating that the limit shall be 45% of GDP. Furthermore, the interest on the public debt has been increasing in recent years, from 1.8% of GDP in 2012 to 2.9% of GDP in 2014, which shows that debt-servicing costs are taking up a greater proportion of public expenditure. The Government has announced a fiscal-consolidation programme over the period 2015-17 with the intention of stabilising the debt ratio at about 79% in 2016/17. However, with 30.9% of debt being denominated in USD and with interest on 23.4% of debt being variable²⁷⁹, there is a risk that the appreciation of the USD and a rise in interest rates could affect the targets.

Neither the Public Debt Law nor the Budget System Law prevent SOEs from borrowing, and the Public Debt Law allows the Government to guarantee borrowing by these companies. The impact of the guarantees is reflected only when the Government is required to honour them, but they have been significant, with payments amounting to 0.8% of GDP in 2014. The stock of guaranteed borrowing, which at the end of 2014 was 7.9% of GDP²⁸⁰, is reported in the *Public Debt Administration Monthly Report*.

There is no annual report on debt management other than the debt management strategy, which is produced before the end of the preceding year. Therefore, the data for the most recent year is estimated.

The debt target is not respected and although the Government has announced steps to stabilise the debt, it is too early to judge how effective this will be. There is a debt management strategy, and debt is monitored and reported monthly, but the debt ratio has risen quickly in recent years. Debt servicing is now costing the equivalent of 2.9% of GDP and is exposed to exchange-rate movements and interest-rate rises.

Principle 5: Budget transparency and scrutiny are ensured.

The Debt Administration publishes its report on borrowing each month within four weeks of the month's end²⁸¹. However, the MoF publishes the monthly report on central government revenue and expenditure cash flows, which is compiled using Treasury data²⁸², with an eight-week delay²⁸³. This

²⁷⁶ www.javnidug.gov.rs/eng/default.asp?P=76.

²⁷⁷ The Law on the State Audit Institution, November 2005 (Official Gazette No. 101/05); Amending Law, May 2010, Official Gazette No. 36/10.

²⁷⁸ The Budget System Law, Article 27g.4.

²⁷⁹ P. 9 of the Investor Presentation January 2015 at www.javnidug.gov.rs/upload/Informacije%20za%20investitore/2015/Investor%20presentation%20January%202015%20final.pdf.

²⁸⁰ P. 4 of the Public Debt Administration December Report.

²⁸¹ *Public Debt Administration Monthly Report*, www.javnidug.gov.rs/eng/default.asp?P=76.

²⁸² This is referenced in the monthly report.

²⁸³ <http://www.mfin.gov.rs/pages/issue.php?id=8528> – latest report at 25 March 2015 is for December 2014.

report also includes separate cash-flow information on local government and extra budgetary funds. In addition, it contains consolidated data for general government compiled on the Government Finance Statistics (GFS) 2001 basis. The report does not explain variations from the profile since no profile is published, and it does not include future spending commitments. Nor does it provide data about individual budget organisations or even ministries. Therefore, the value for the indicator on in-year financial reporting providing full information and being publicly available is 1.

The Budget System Law²⁸⁴ requires that the annual financial statement be subject to external audit by the SAI, and this is done. The statement is in a similar format to that of the Budget and shows the Budget allocation, executed Budget figures and the differences between the two. That said, it provides no explanation of the basis for the variations, many of which are significant, even at the detailed line item level according to the 2013 Annual Financial Statement²⁸⁵. Details on a general government basis or details of state assets are not included, and there is no non-financial performance information. The Law also requires that the annual financial statement be submitted to Parliament by 15 July for approval. This is also done and a debate takes place, but there is nothing to suggest that the opinion of Parliament is taken into account before the Government's consideration of the next Budget. Therefore, the value for the indicator on the annual financial report providing full and timely information to the Parliament is 2.

The Budget System Law provides for transparency and scrutiny, and at the most basic level the requirements of the Law are implemented. Profiles against which Budget execution can be analysed are not published, however. Furthermore, the annual financial statement provides only the most basic details.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should publish a monthly profile of planned expenditure and revenue at the beginning of the year. In the monthly Finance Bulletins, which should be produced within four weeks of the month's end, the MoF should compare actual outcomes versus the profile and explain significant differences.
- 2) The MoF should analyse and report to the Government on the large difference in planned and actual expenditure in November and December, with the objective of identifying possible savings.
- 3) To enhance budget transparency, the MoF should publish on its website a time series of the key components of expenditure and revenue; this information is available but currently can be found only by searching through different publications.
- 4) The MoF should ensure that the Annual Financial Statement explains significant variations in expenditure by Budget users, is available by the end of June, and includes information on a general government basis.

Medium-term (3-5 years)

- 5) The MoF should ensure that the monthly Finance Bulletins show spending data for the individual direct Budget users.
- 6) The MoF should ensure that the Annual Financial Statement provides non-financial performance information on Budget programmes and information on financial assets and liabilities.

²⁸⁴ Article 92 of the BSL.

²⁸⁵ www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/2594-14Lat.pdf.

2.3. Key requirement: National financial management and control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.

Baseline values

Financial management and control in the Serbian public sector is examined through four indicators, three of which are quantitative and one qualitative. The qualitative indicator covers 10 critical elements of an effective framework as defined in the Principles of Public Administration. It is complemented by three numerical indicators to analyse how key aspects of financial management and control are developing.

The legal framework exists for a functional internal financial control system that supports FMC, including managerial accountability. However, the objectives and benefits of a fully operational FMC system are poorly understood throughout the administration. The baseline value on the qualitative indicator reflects that FMC is significantly short of being fully developed. The quantitative indicators are consistent with this, with no data being available for two and the third, regarding wastefulness of government spending, showing a very low rating as Serbia was ranked 132 out of 144 countries.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	6	Extent to which the operational framework for FMC is complete, in place and applied.	2014	2
Quantitative	7	Share of first-level budget organisations where budget structure is aligned with the organisational structure.	2014	Not available ²⁸⁶
	7	Share of first-level budget organisations where delegated budget holders below minister or secretary-general level receive at least monthly information on financial commitments and spending against the Budget within their part of the Budget.	2014	Not available ²⁸⁷
	7	Wastefulness of Government spending (The World Economic Forum).	2013/2014	2.2 ²⁸⁸

²⁸⁶ This data is not collected by CHU/FMC.

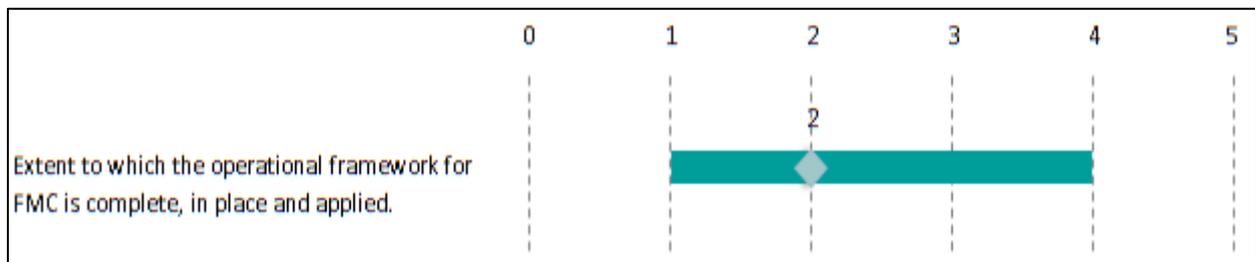
²⁸⁷ This data is not collected by CHU/FMC.

²⁸⁸ www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf Global Competitiveness Report 2014-2015, p. 329. Serbia is ranked 132 out of 144 countries.

Serbia
Public Financial Management

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 5. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 6: The operational framework for financial management and control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and public administration in general.

The Budget System Law (BSL)²⁸⁹ and the Rulebook on Common Criteria and Standards for Establishment, Operation and Reporting on the Financial Management and Control System in the Public Sector provide a legal framework for the development of FMC. The Rulebook, which dates originally from 2007, was updated in both 2011 and 2013, and it is consistent with the amendments to the BSL that have been made since then. However, the BSL²⁹⁰ does not explicitly require the Central Harmonisation Unit (CHU) to engage in networking activities or in analysing individual internal control systems, which is a core activity of a CHU if it is to play its role in implementing FMC throughout the administration. There is a manual for FMC, but it has no legal status and is not published although it is widely distributed²⁹¹. The MoF acknowledges that the legislation underpinning various aspects of FMC, including budgetary and treasury arrangements and financial inspection, as well as financial management itself, requires further amendment in order to eliminate contradictions and duplication.

The CHU has three staff out of four posts working full-time on FMC development. However, it has focussed on FMC-related training courses rather than monitoring FMC in practice, and its annual report to the Government is based on self-assessment questionnaires completed by the Budget beneficiaries themselves. In 2014, only 119 out of 187 direct budget beneficiaries (64%) returned the questionnaire, although the highest-spending organisations are included in those making returns. The most recent annual report²⁹² contains minimal information about results achieved and makes only the most general recommendations for improvements (though it does identify shortcomings). The Government does not use the report to further implement FMC and, although there were Government decisions that approved the adoption of the FMC Rulebook and the amendments in 2013, the Government has not issued any directions that would enhance managerial accountability within the administration until the recent adoption of the PAR Action Plan 2015-17²⁹³. The PIFC Strategy Paper 2009-2014 should have been replaced by the end of 2014, but the new Strategy Paper has been delayed. Currently, therefore, there is no updated plan in place to develop FMC in the Budget beneficiaries. Based on the details

²⁸⁹ The Budget System Law, Article 81.

²⁹⁰ The Budget System Law, Article 83.

²⁹¹ The MoF includes the manual in an information pack for participants at training courses for both direct and indirect Budget users.

²⁹² For 2013; 2014 report due in May 2015.

²⁹³ The impact of the PAR Action Plan 2015-2017 cannot be assessed as it has only been adopted, but it includes performance indicators and specific targets that will allow monitoring of implementation of the specified objectives, including objectives for FMC, in the future.

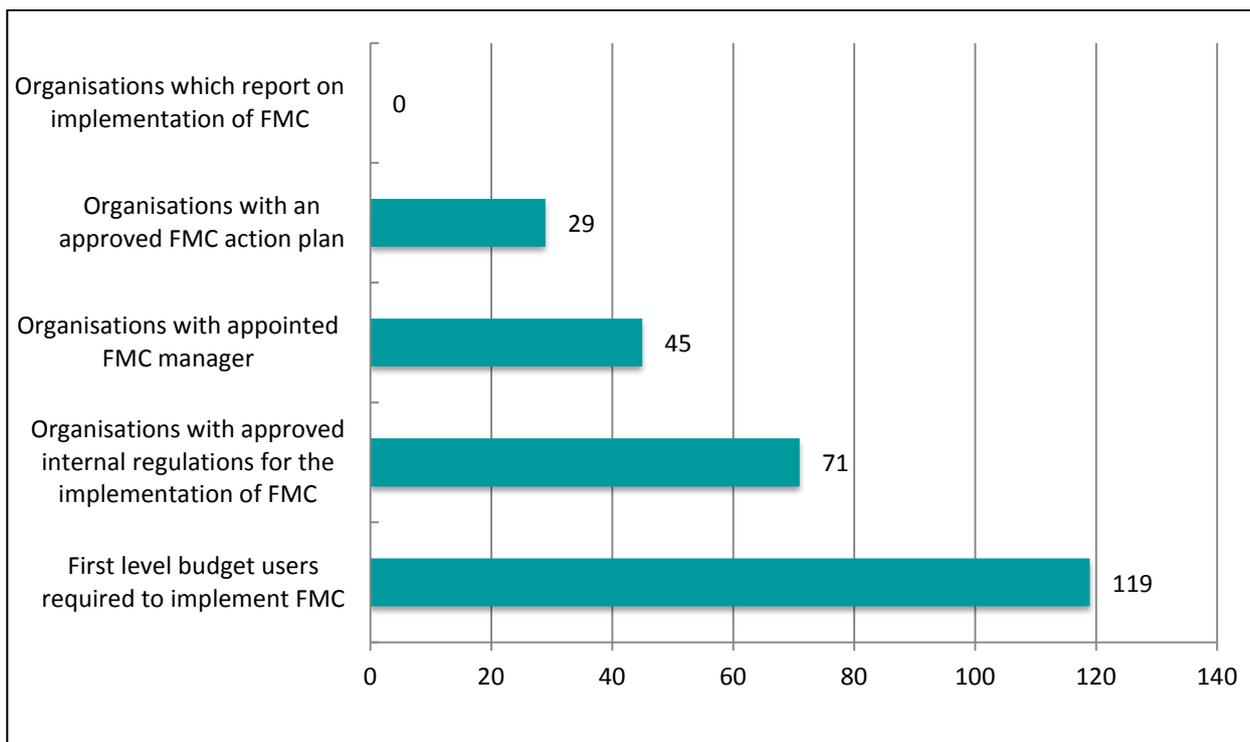
outlined above, therefore, the value for the indicator on the extent to which the operational framework is complete and applied is 2.

A legal framework for FMC is in place, but implementation of the legal procedures is weak. Although elimination of inconsistencies in the legal framework will improve the framework, it will not be enough to ensure implementation. There is no current policy plan in place and CHU/FMC has limited itself to training and issuing reports instead of trying to raise awareness at a managerial level of the importance of FMC.

Principle 7: Each public organisation implements financial management and control in line with the overall financial management and control policy documents.

The BSL requires all beneficiaries of public funds to establish FMC, and it defines these beneficiaries very widely so that it includes extra-budgetary funds and SOEs. Nevertheless, no numbers are available on how many beneficiaries are required to implement FMC. The CHU annual report for 2013 showed that of 119 direct (first-level) beneficiaries who returned forms, 71 had internal regulations for implementing FMC, 45 had appointed a high-level manager for FMC and 29 had an implementation plan for developing FMC within the organisation. There is no requirement for budget beneficiaries to report on progress made on the implementation of FMC within the organisation. As there are 187 direct beneficiaries, these figures show that FMC is not yet fully operational throughout the administration.

Figure 6. Implementation of FMC: Key elements



Source: Ministry of Finance.

Although subordinate institutions are legally required to adopt FMC, there is no evidence to suggest that this is widely applied. Nor can it be said that SOEs, which have incurred large losses in recent years, are subject to robust monitoring by their responsible first-level organisations.

While the introduction of programme budgeting will enhance the transparency of expenditure and will show responsibilities more clearly, managerial accountability is not well established in Serbia. The 2013 CHU Annual Report lists a number of shortcomings including, in most organisations, no plans for FMC implementation, a failure to establish a working group to develop FMC, poor attendance rates among high-level managers at FMC training events, and an emphasis on legal compliance but no awareness of

how to overcome barriers to achieve objectives. Furthermore, although new policy proposals are required to estimate likely costs before the Government can consider the proposals, there is no evidence that Budget users have fully implemented this requirement²⁹⁴.

Public organisations have not implemented financial management and control in line with the legal framework. A significant number of institutions do not even return the annual CHU questionnaire, and many that do complete it are not implementing the key steps for developing it within their organisation. This is an impediment to the development of the new programme Budget system, since managers need to understand their responsibility and take actions through FMC to ensure that they achieve their programme objectives.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should finalise and publish the PIFC Strategy 2014-2020 in co-ordination with the publication of the public financial management (PFM) Programme.
- 2) The MoF should review the FMC Manual to ensure that it is consistent with legislation in the area of public financial management, and ensure that it is given a legal status.
- 3) The MoF should start performing analyses in individual organisations on the level and quality of implementation of – as opposed to the existence of – FMC rules and procedures.
- 4) The MoF should ensure that the good practices that apply to the management and control of IPA funds are applied to the management of all public funds in the Budget.

Medium-term (3-5 years)

- 5) The MoF should develop proposals for increased emphasis on the use of performance indicators to measure efficiency and effectiveness and therefore enable budget beneficiaries to achieve strategic objectives within Budget limits.

2.4. Key requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.

Baseline values

The IA function in the public sector of Serbia is examined through three quantitative and two qualitative indicators. The qualitative indicators cover elements of the IA legal and operational framework and the quality of IA reports. All data collected is supplemented by interviews.

All key functions for the IA function are established, and the values below reflect partial implementation. The legal framework for an IA function in Serbia is in place, although improvements are necessary. However, only 57% of public institutions have established the function and only 72% of IA staff had national certificates for IA in 2013 (cf. 63% in 2012). The CHU does not compile data about annual IA plans conforming to national legal requirements, and the quality of IA reports cannot be assessed owing to insufficient data.

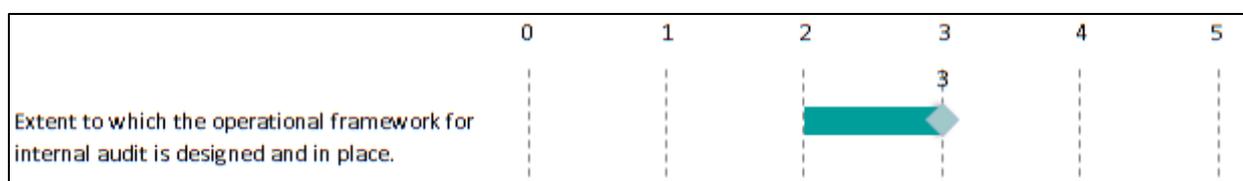
²⁹⁴ An examination of some policy proposals shows that costs are not robustly calculated.

Serbia
Public Financial Management

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which the operational framework for internal audit is designed and in place.	2013	3
	9	Quality of internal audit reports.	2014	Not available ²⁹⁵
Quantitative	8	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	2013	36% ²⁹⁶
	8	Share of internal auditors with a national or international internal audit certificate.	2013	72% ²⁹⁷
	9	Share of organisations with annual internal audit plans conforming to national legal requirements.	2014	Not available ²⁹⁸

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 7. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 8: The operational framework for internal audit reflects international standards and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

IA is established as a decentralised system overseen by the CHU, which has five staff working full-time on IA development. IA is performed on the basis of Article 82 of the Budget System Law²⁹⁹. The MoF has adopted a Rulebook on Joint Criteria for the Organisation and Standards and the Methodological Guidelines for Performing Internal Audit in the Public Sector, including the audit of European Funds. The Rulebook, which dates originally from 2007, was updated in both 2011 and 2013, and it reflects the amendments to the BSL that have been made since then.

²⁹⁵ Only four IA reports out of ten requested were submitted, which is not a sufficient sample to assess the quality of IA reports.

²⁹⁶ The CHU reported that 67 out of 185 central budget institutions that are required to introduce IA have set up IA in accordance with legal requirements; it also reported that 109 budget institutions in total have set up IA in accordance with legal requirements. This report uses central budget institutions as the basis.

²⁹⁷ CHU reported that 189 out of a total of 263 IA staff have national certificates. The number of staff with international certificates is unknown.

²⁹⁸ CHU reported that there is no data on annual IA plans conforming to national legal requirements.

²⁹⁹ Official Gazette No. 54/09, 108/13.

Serbia
Public Financial Management

In 2013³⁰⁰, the number of IA units established in central budget institutions continued to increase, to 67 from 49 in 2012. However, this represents only 36% of the 185 central budget institutions that are required to introduce IA. Although the CHU sometimes arranges meetings for the heads of IA units, the slow pace of IA development and the absence of written agendas or minutes mean that the meetings cannot be considered effective. The number of IA staff also increased in 2013, to 263 from 225. There were 204 vacancies reported for 2013.

Established IA units plan their activities according to a three-year strategic plan and an annual work plan. The head of the institution approves audit plans, audit reports and recommendations. For 2013, IA units planned 695 audits (cf. 466 in 2012), performed 615 audits (cf. 390) and made 2 993 recommendations (cf. 2 382), of which the institutions implemented 2 212 by the year-end (cf. 1,669). Of the recommendations, 1 274 (compared with 2 013 in 2012) covered the need for improvements to internal policies and procedures; other recommendations covered areas such as procurement and contracting, accounting records and financial reporting, and salaries and benefits.

The regulations for IA provide clear requirements for safeguarding the independence of internal auditors³⁰¹, but the CHU annual report records that these auditors spend a significant proportion of time on activities that are not within their remit. This is not in accordance with IA standards and directly threatens their functional independence. Budget inspection is organisationally separate from IA, but the roles and responsibilities as set out in the law³⁰² risk overlapping with those of IA, particularly as both functions are concerned with legal compliance issues.

On the basis of the evidence provided and outlined above, the value for the indicator on the extent to which the operational framework is designed and in place is 3.

The annual CHU report shows further progress in the development of internal audit. An effective and fully operational IA function has not yet been established in all public institutions, however. Also, the practical application of the requirements for IA independence is weak, and the CHU does not provide guidelines in this regard. There is a risk of overlap and duplication in the work of IA and of budget inspection.

Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents as appropriate to the organisation.

The CHU provides training for internal auditors for continuing professional development, as well as for training staff for the certified public-sector qualification. The CHU provided theoretical training for 108 IA staff from 46 public institutions in 2013. It also provided practical experience for 71 staff from 17 public institutions. Forty-eight staff members passed the examinations and became certified auditors. Thus, 189 IA staff have now earned the title of “certified public internal auditor” (cf. 141 staff in 2012). IA units, however, have difficulty in recruiting and retaining suitable staff.

The review of a selection of IA reports found that the units undertake their audits in accordance with the regulatory framework and implement the specific requirements of the Rulebook as regards the planning, undertaking and reporting processes³⁰³. The scope of the audits, as set out in the internal reports examined in this exercise, records that IA includes the assessment of the control procedures and compliance with the rules in the selected sub-system. Samples of transactions are tested and the results recorded in the audit report. The review also found that recommendations are made, referring when appropriate to the recommendations made in previous IA reports. There is no evidence of

³⁰⁰ CHU Report for 2013 data, based on responses to a CHU questionnaire.

³⁰¹ *Rulebook on Joint Criteria for Organising and the Standards and Methodological Instructions for Performing Internal Audit in the Public Sector*, Article 7.

³⁰² The Budget System Law, Articles 84 to 91.

³⁰³ Rulebook, Articles 21 to 30.

examples of recommendations concerning the economy, efficiency or effectiveness of the institutions being audited.

The CHU has no programme to carry out external quality assurance reviews of IA. In 2013, it carried out a check of IA in ten ministries, two mandatory social insurance funds and two cities with the assistance of consultants, but it has not continued with the checking. Furthermore, there is no information about management's implementing IA recommendations.

The indicator about the quality of IA reports cannot be assessed because only four IA reports out of the ten requested have been submitted, which is not a sufficient sample to assess the quality of IA reports.

The IA units that have been established are undertaking audits in line with the regulatory framework for IA. The CHU has provided training to IA staff, and the number of certified internal auditors has continued to increase. In the examples of IA reports seen, IA units are providing useful recommendations to help management improve its control systems. The review of IA reports did not identify any recommendations in respect of economy, efficiency or effectiveness.

Key recommendations

Short-term (1-2 years)

- 1) The Government should endorse an implementation schedule for IA units as part of a revised PIFC strategy to ensure that the mandatory IA function is established and is operating effectively throughout the public administration.
- 2) The CHU should reinforce the operational independence of IA in public institutions and undertake a structured programme of quality assurance reviews of IA units to improve the quality of the audits being undertaken within the institutions.
- 3) The MoF should analyse examples of overlap or duplication between budget inspection and IA and should raise awareness of public-institution staff on the differing roles and responsibilities of these functions.

Medium-term (3-5 years)

- 4) The CHU should provide guidance to IA units to consider economy, efficiency and effectiveness issues as part of their audits.

2.5. Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty on the functioning of the European Union and the European Union *acquis*, and are supported by suitably competent and adequately resourced institutions.

Baseline values

The key requirement for harmonisation of public procurement regulations with the EU *acquis*, as well as the establishment of corresponding institutional structures and arrangements, is examined through six qualitative indicators. The first two describe the extent to which the legislation is complete and enforced, covering the eight main goals defined in Principle 10, and the openness of policy making and monitoring. The next two indicators concern the development and implementation of the policy framework and the existence and performance of a dedicated institution for central procurement functions. The last two cover the effective monitoring of the public procurement system and the extent to which information about its workings is readily available to all interested parties.

In Serbia, the legal framework for public procurement (including defence procurement) is largely harmonised with the EU *acquis*. In 2014, most of the secondary legislation, including the regulation on procurement in the field of defence and security, was adopted. The current legal framework ensures proper conditions for increasing transparency in public procurement and for tackling corruption.

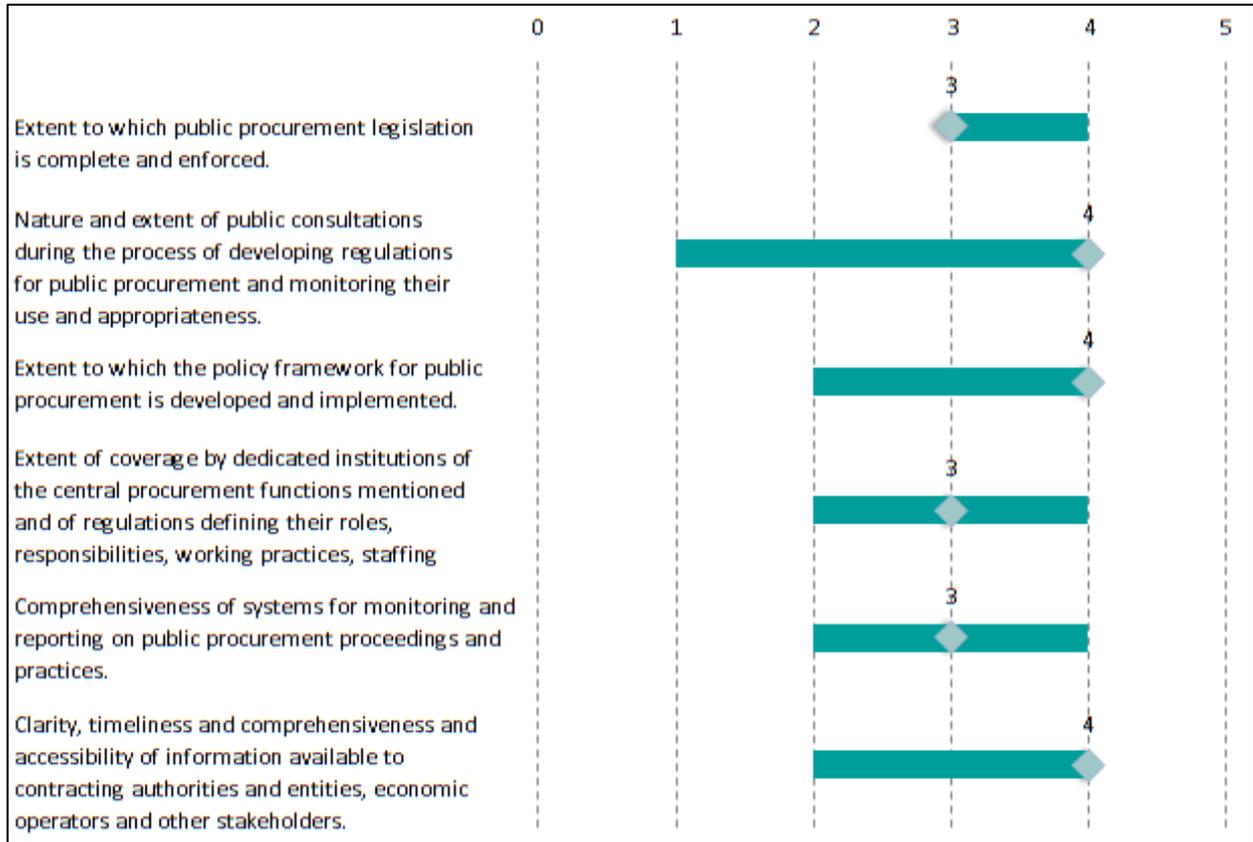
Serbia
Public Financial Management

Nevertheless, the system suffers from very detailed and prescriptive regulation. The institutional framework provides the necessary elements for a functional system, but the excessive number of functions allocated to central institutions (especially to the PPO) negatively influences the performance.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	10	Extent to which public procurement legislation is complete and enforced.	2014	3
	10	Nature and extent of public procurement consultations during the process of developing regulations for public procurement and monitoring of their use and appropriateness.	2014	4
	11	Extent to which policy framework for public procurement is developed and implemented.	2014	4
	11	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	2014	3
	11	Comprehensiveness of systems for monitoring and reporting on public procurement procedures and practices.	2014	3
	11	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	2014	4

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 8. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 10: Public procurement regulations (including public-private partnerships and concessions) are aligned with the acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.

The legislative framework consists of the PPL³⁰⁴, covering procurements in the public sector, the utilities sector, and defence and security, along with 16 implementing bylaws³⁰⁵, and the Law on Public-Private Partnership and Concessions³⁰⁶ with implementing secondary legislation.

The PPL is largely aligned with the EU *acquis*, although some discrepancies remain. For example, not all definitions reflect the terms of the relevant Directives³⁰⁷ (e.g. definition of the Contracting Authority), some exemptions are wider in scope than in the Directives³⁰⁸, and provisions for the utilities and defence sector do not make use of all available flexible instruments envisaged in European law. The

³⁰⁴ Official Gazette No. 124/12 with later amendments.

³⁰⁵ Still awaiting adoption: List of contracting authorities referred to in Articles 2 and 117 of the Law, to be adopted by the Government on proposal of the Ministry of Finance and the Public Procurement Office at the beginning of each budget year; List of contracting authorities covered by exemptions provided for in Article 7, paragraph 1, items 1), 6) and 7) of the Law, to be adopted by the Government of the Republic of Serbia.

³⁰⁶ Official Gazette No. 88/11.

³⁰⁷ 2004/17/EC Directive, 2004/18/EC Directive.

³⁰⁸ E.g. Article 7 paragraph (2) point 1 of the PPL.

Serbia
Public Financial Management

PPL defines the main principles of public procurement: efficiency and cost-effectiveness, competition, transparency, equality of bidders, environmental protection and energy efficiency³⁰⁹. The non-discrimination principle is not fully respected, as the application of domestic preferences is mandatory³¹⁰. Special provisions focusing on the prevention of corruption and conflicts of interest³¹¹ provide for additional duties for contracting authorities, with the aim of ensuring internal risk assessment³¹² and notification of irregularities. Special instruments such as supervision of the most valuable procurements by civil supervisors³¹³ ensure transparency of the procedures.

Works concessions are awarded in line with the PPL. A special procedure is conducted for service concessions, ensuring transparency through the publication of concession notices. Concessions are awarded based on the highest offer or the economically most advantageous bid³¹⁴. Nevertheless, there is a need for further steps to align the PPL with the EU Directive on Concessions³¹⁵.

The contracting authorities are obligated to prepare annual public procurement plans including, among other things the object and value of the procurement, which are sent to the PPO and the SAI³¹⁶. The preparation of plans was intended as a mechanism not only for minimising the risk of corruption, but mainly as a tool for proper management of public procurement. However, the detailed requirements for stating the reasons and justifications for each procurement, accompanied by the manner of determining the estimated value, place a heavy administrative burden on contracting authorities. The other problem in practice results from a tight margin of flexibility. The funds that were originally foreseen for a specific public procurement in the plan cannot be increased by more than 10%, except in cases of natural disasters, accidents or major breakdowns, or events beyond the control of the contracting authority³¹⁷. The contracting authority may change its procurement plan, however, in the case of a revised budget or amended financial plans. In practice, the modification of any item in the procurement plan generates a considerable administrative burden. The introduction of changes takes two months³¹⁸ in some cases. Yet neither the contracting authority nor the PPO publishes the public procurement plans; thus, the economic operators do not have access to the plans and cannot benefit from them.

In previous years the conclusion of multi-year contracts was one of the main problems owing to a lack of harmonisation with the Budget System Law³¹⁹. The Decree on Criteria for Determining the Nature of Expenditures and Conditions and Manner of Obtaining Consent for Specific Contracts which require Multi-annual Payments due to the Nature of Expenditures³²⁰ attempts to eliminate this obstacle. The provisions allow a contract to be concluded if it fulfils defined criteria for a maximum three years while stating that the contracting authority is obligated to guarantee the funds in its budgets for those years. The decision to conclude a multi-year contract must be approved by the relevant supervisory body.

³⁰⁹ The PPL, Chapter I subchapter 3.

³¹⁰ The PPL, Article 86.

³¹¹ Chapter II PPL and Regulation on the Contents of By-law Further Regulating Public Procurement Procedure within the Contracting Authority (Official Gazette No. 106/13).

³¹² The contracting authority is obliged to adopt internal by-law regulating in detail the process of public procurement.

³¹³ According to the Public Procurement Law, Article 28, it is mandatory that procedures with a value above RSD 1 billion are supervised by the civil supervisor – a person appointed by PPO supervising the procedure by having permanent insight into all documents and communication between parties. The civil supervisor is obligated to elaborate a report after the procedure is finished, and send it to specified institutions.

³¹⁴ The Law on Public-Private Partnership and Concessions, Chapter III.

³¹⁵ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts.

³¹⁶ The PPL, Article 51, and Regulation on Form and Contents of Procurement Plan and Procurement Plan Implementation.

³¹⁷ The PPL, Article 51.

³¹⁸ Reported by contracting authorities during meetings.

³¹⁹ SIGMA (2014), [Assessment of Serbia](#), OECD Publishing, Paris.

³²⁰ Official Gazette No. 21/2014.

The regulatory situation (continuing deficiencies of the PPL, additional administrative burdens on contracting authorities and non-alignment for concessions) leads to a value of 3 for the indicator “Extent to which legislation is complete and enforced”.

Representatives of the administration and contracting authorities are involved in consultations on regulatory and policy development (a recent example is the process for developing the Strategy). The opinions on implementation of existing regulations are gathered during PPO workshops and seminars and from representatives of business (e.g. Serbian Chamber of Commerce)³²¹. Nevertheless, no special online instruments are established to collect comments from the public as part of a consultation and there are no reports back to the public on the outcome of a consultation. These lead to a value of 4 for the indicator covering the nature and extent of public consultations.

The legal framework for public procurement (including defence procurement) is largely harmonised with the EU *acquis*. The current legal framework ensures proper conditions for increasing transparency in public procurement and for tackling corruption. However, the system suffers from very detailed and prescriptive regulations, which place a heavy administrative burden on the contracting authorities.

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

With a staff of 28, the PPO performs the functions of the central administrative body responsible for public procurement. It has no power to officially propose amendments to the PPL³²², however, as this function is performed by the MoF. In 2014, the PPO performed numerous activities such as³²³ providing opinions on the joint conduct of public procurement by multiple contracting authorities (139 opinions were prepared by the PPO) and the issuing of opinions on the justifiability of the use of the negotiated procedure without prior publication (in 2014, 4 338 requests were submitted to the PPO). In the latter case, the PPO reports that the preparation of an opinion takes 45 minutes on average. The limited time that the PPO can allocate to analysing each request raises questions about the quality of the process. The list presented is not exhaustive, and the other activities cannot be considered as less important. This overload of duties results in the PPO being unable to perform all of its obligations in a proper and timely manner. The main area where the activities are executed in a limited way is monitoring wherein, for example, the analysis of public procurement plans or amendments to contracts is not performed³²⁴.

The PPO is responsible for establishing and maintaining the registry of concluded public contracts on the Public Procurement Portal³²⁵, but this has not been created, yet.

The Budget Inspection Unit within the MoF is responsible for controlling the implementation of the laws and secondary legislation on financial and material operations, as well as the appropriate and lawful use of funds by all spending units listed in the Law on Budget System³²⁶.

The SAI includes public procurement in its audits of the administrative bodies. The external audit remains focussed on compliance of procedures with the PPL, while less attention is paid to performance. In 2014, 134 reports on compliance were adopted but only one on performance³²⁷.

³²¹ Information collected during interviews with the Serbian Chamber of Commerce, with representatives of economic operators and representatives of contracting authorities.

³²² The PPL, Article 136 does not clearly state the power in the field. The Public Procurement Office was not the initiator of the adoption of the current PPL.

³²³ Data provided in the Report on Public Procurements in the Republic of Serbia in the period 1 January 2014-30 June 2014.

³²⁴ The conclusion is based on interviews with the Public Procurement Office.

³²⁵ Regulation on manner of Keeping and the Contents of the Register of Public Contracts adopted by the Ministry of Finance (Official Gazette No. 57/2013).

³²⁶ Report on Public Procurements in the Republic of Serbia in the period 1 January 2014-30 June 2014, Public Procurement Office.

³²⁷ Questionnaire of external audit.

Serbia
Public Financial Management

Moreover, the SAI is involved in some processes described in the PPL³²⁸, under which analysis of public procurement plans was performed³²⁹ in 2014.

In the field of concessions and PPPs, the distribution of functions and responsibilities among the central institutions is complicated. The Ministry of Economy and Regional Development³³⁰ was responsible for the legislative process until 2010, a situation still visible in the composition of the Commission for Public-Private Partnership - its President is a representative of the Ministry. The Ministry of Trade, Tourism and Telecommunications is, under the Law on Ministries³³¹, vested with public administration duties relating to concessions and PPPs, which is reflected in the Action Plan accompanying the Strategy³³². The Commission for Public-Private Partnership³³³ provides technical assistance on the implementation of PPP projects and concessions, as an independent interdepartmental public body. The Commission has nine members (including its President and Vice-president) and meets at least once a month. The impermanent way of working and lack of necessary resources³³⁴ create an obstacle in the performance of activities related to promotion of concessions and PPP projects, and dissemination of best practices. This also results in insufficient co-operation between the Commission and the PPO.

In April 2014, a Memorandum of Co-operation was signed between the Republic Commission for the Protection of Rights in Public Procurement Procedures, the SAI, the Anti-Corruption Agency, the Anti-Corruption Council, the Competition Commission, the MoF, the Ministry of Economy and the PPO.

The institutional framework for public procurement and concessions/PPP is in place, but the above-mentioned shortcomings lead to a value of 3 in the relevant indicator.

In October 2014, the Government adopted the Public Procurement Development Strategy of the Republic of Serbia period 2014-2018³³⁵. The Strategy covers public procurement and concessions/PPP. The accompanying Action Plan defines the activities, actors responsible for these, time periods and milestones for implementation. The Action Plan covers only 2015. The main risks in the implementation are a lack of financial support and resource planning and allocation, which leads to a value of 4 for the relevant indicator.

The PPO has a developed system of collecting and processing data on public procurement. Annual and periodic reports are prepared. However, the system does not make full use of the opportunity to collect, process and present data that is relevant for the procurement market (details about award criteria used in procurement procedures, costs of preparation of a tender by the bidder or unit prices of goods, services or works in particular). No data is available on contracts awarded in the fields of defence and security or on the number of works and services concessions. Legislation, periodic and annual reports, and operational tools and guidelines are available on the PPO webpage. The limitations of the monitoring system justify the value of 3 for the relevant indicator. The PPO's successful attempts to prepare and publish comprehensive guidelines, model tender documents and other tools available to contracting authorities and procurement officials lead to a value of 4 for the respective indicator. The portal that the PPO operates is an important source of information for contracting authorities, but not all documents that it prepares are disseminated (such as opinions issued by the PPO), no

³²⁸ The PPL, Articles 22, 36, 49, 51, 107, 115, 148, 165.

³²⁹ The conclusion is based on interviews with contracting authorities.

³³⁰ At present, the Ministry of the Economy.

³³¹ Official Gazette No. 44/14.

³³² In 2015 the Ministry of Trade, Tourism and Telecommunications will be responsible for preparation of gap analysis of the Serbian legislation on concessions in the light of the Concessions Directive.

³³³ The Law on Public Private Partnership and Concessions, Article 65. The Commission was established by the Decision of the Government on the establishment of the Commission for Public-Private Partnership (Official Gazette No. 13/12).

³³⁴ The Commission has no permanent administrative structure and has only one permanent employee meeting with the representative.

³³⁵ [Public Procurement Development Strategy of the Republic of Serbia](#).

publications about sustainable procurement are available, some thematic publications are outdated, and the business sector is insufficiently addressed.

The institutional framework provides the necessary elements for a functional system, but the excessive number of functions allocated to central institutions (especially to the PPO) negatively influences performance. In 2014, the PPO had to prioritise its tasks and focussed mainly on the preparation of the missing implementing tools and thus put less effort into its monitoring and oversight functions.

Key recommendations

Short-term (1-2 years)

- 1) The MoF and the PPO should supplement the existing (and future) Action Plan, accompanying the Strategy with the budget allocation for the actions.
- 2) The Government should sufficiently define, with legislation, the co-ordination function in the area of concessions and PPPs.
- 3) The MoF and the PPO should prepare, and the Government should adopt, the List of contracting authorities referred to in Articles 2 and 117 of the PPL, and the List of contracting authorities covered by exemptions provided for in Article 7, paragraph 1, items 1), 6) and 7) of the PPL.
- 4) The PPO should publish procurement plans of contracting authorities in order for economic operators to benefit from the advantages of public accessibility to such a database, as well as reconsider the provisions concerned with preparation and dissemination of public procurement plans so the plans may become a useful and flexible tool for proper public procurement management.

Medium-term (3-5 years)

- 5) The Government should review the PPL and its implementing legislation to implement the new EU Directives on public procurement and concessions³³⁶.
- 6) The MoF and Ministry of the Economy should ensure the provision of resources that are essential for the Commission for Public-Private Partnership's continuous performance.
- 7) The Government should review the obligatory activities of the PPO, with the aim of reducing those that do not have a real impact on the public procurement system (e.g. the opinions on joint conduct of procurement procedures).
- 8) The MoF and the PPO should monitor the influence of the regulations concerning multi-year contracts.

2.6. Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.

Baseline values

The key requirement for the establishment of an independent, transparent, effective and efficient remedies system is examined through six indicators, four of which are quantitative and two are qualitative. They describe the timeliness of the review procedure, accessibility of the review system for economic operators and performance of the review body.

In Serbia, a proper regulatory framework and institutional set-up for handling complaints is in place. The review body is facing a constantly growing number of complaints. Access to the review system is not restricted by excessive costs.

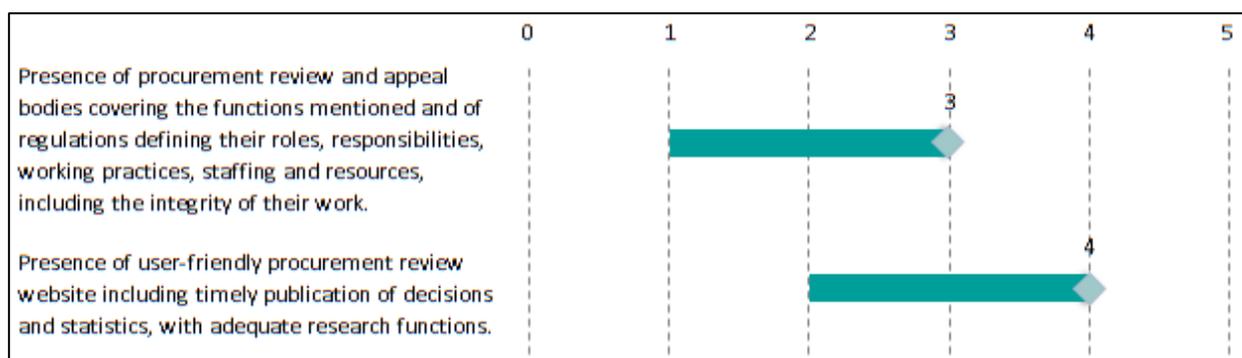
³³⁶ Directive 2014/24/EU, Directive 2014/23/EU, Directive 2014/23/EU.

Serbia
Public Financial Management

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	12	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2014	3
	12	Presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate research functions.	2014	4
Quantitative	12	Actual processing time of complaints related to procurement compared with maximum legal requirements.	2014	Not available ³³⁷
	12	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	2014	26.56%
	12	Number of complaints in relation to the number of tender notices published.	2014	5.1% ³³⁸
	12	Share of complaints in procurement that are challenged to the next judicial level.	2014	10%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 9. Country baseline value in comparison with the regional range



³³⁷ The average actual processing time of complaints is 26 days. However, as there are different deadlines for different complaint procedures in the law (20, 30 or 45 days) and statistics on the actual processing time per procedure are not available baseline value for the indicator cannot be given.

³³⁸ Number of complaints: 3.052, number of tender notices published: 59.665.

Analysis of Principles

Principle 12: The remedies system is aligned with the acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions

The Republic Commission for the Protection of Rights in Public Procurement (CPR) ensures the protection of rights in public procurement procedures, and it reports to the Parliament. The CPR has 6 members and 69 supporting staff³³⁹.

Table 1. Key characteristics of the remedies system.

	2012	2013	2014
Number of appeals submitted	1 182	1 595	2 162
Number of decisions taken	1 231	1 522	2 052
Number of decisions published	1 473	1 720	2 095
Number of appeals accepted (decision of contracting authority changed)	52 partly 140 fully	498 partly 115 fully	766 partly 129 fully
Number of appeals rejected	264	351	526
Average time of processing the case before the CPR (days)	13.35	19.78	27.25
Number of complaints challenged to the next judicial level	104	87	156

Source: Republic Commission for the Protection of Rights in Public Procurement.

In 2014 the CPR faced an escalation of submitted complaints: 1 556 complaints were reviewed³⁴⁰, compared with 1 258 in 2013³⁴¹. The trend reflects the increase of the procurement market³⁴². The significant increase in received cases confirms the growing interest of economic operators in review procedures: in the first half of 2013 the CPR received 423 requests for protection of rights, while in the first half of 2014 the number was 1 060³⁴³.

The CPR concludes a review in 20 or 30 days, which can be extended for additional 15 days³⁴⁴. In about half of the cases the legal maximum time for processing the complaint was exceeded³⁴⁵. The problems with timely processing arise mainly owing to the CPR's undercapacity. According to Article 140 of the PPL, the CPR should have a President and six members. In 2014 all of the members were appointed; however, one was unable to perform her duty (because of maternity leave). The requirement to take

³³⁹ Public Procurement Law, Article 159.

³⁴⁰ Republic Commission for the Protection of Rights in Public Procurement.

³⁴¹ Report on the Work of Republic Commission for Protection of Bidder's Rights for 1 January 2013-30 June 2013 and Report on the Work of Republic Commission for Protection of Bidder's Rights for 1 July 2013-31 December 2013.

³⁴² According to the Public Procurement Office Report on Public Procurements in the Republic of Serbia for 1 January 2014-30 June 2014, the value of the market accounted for RSD 147 billion, cf. RSD 131 billion in 2013.

³⁴³ Report on the Work of Republic Commission for Protection of Bidder's Rights for 1 January 2013-30 June 2013 and Report on the Work of Republic Commission for Protection of Bidder's Rights for 1 January 2014-30 June 2014.

³⁴⁴ Public Procurement Law, Article 158.

³⁴⁵ In the first half of 2014, 801 cases were delayed versus 1 556 reviewed.

Serbia
Public Financial Management

the decisions in panels composed of three members³⁴⁶ results in two panels working in parallel. With more than 1 500 complaints to review a year, the timeliness, but also the quality of work, is threatened. The procedure before the administrative court is very long, which also negatively influences the system. The average time for processing the claim was reported as 295 days³⁴⁷.

From 1 431 complaints reviewed in substance, almost 36% were found to be unfounded³⁴⁸. The main reasons for upholding the decision of the Contracting Authority were 1) the allegations in the request were unsubstantiated, and 2) the request for protection of rights was filed after the legal deadline for contesting certain phases of the procedure. The number of altered decisions is significant: 766 decisions of contracting authorities were partially changed, while 129 were fully changed³⁴⁹. The CPR focuses on the formal aspects of procurement, in line with the provisions of administrative proceedings. The stakeholder of the public procurement system reported a number of contradictory decisions in similar cases³⁵⁰.

Articles 140-141 of the PPL provide for the mechanism to ensure the implementation of the CPR decisions. In the first half of 2014, 10% of the CPR decisions were appealed to the next judicial level (the respective administrative court). In 54 cases of the 156 claims the CPR decision was upheld, in 23 cases it was altered, while more than half of disputes were not resolved³⁵¹. One of the main problems in the review system is the lack of access to the second judicial instance review by contracting authorities. Owing to the interpretation of the Law on Administrative Disputes³⁵², the court rejected the claims as it deemed that the contracting authority had no legal capacity to submit a claim³⁵³.

Given the problems in functioning of the review system in the second instance and the significant number of cases in which the procurement review body exceeded the legal maximum processing time, the corresponding value is 3. All decisions issued by the CPR are available on the public procurement portal as well as on the CPR's website³⁵⁴. The complaints register provides search facilities by party involved, date, type of decision, etc. The possibility to search by reference to the article of law has also been available from January 2015. The most important information is also accessible: legislation, instructions about fees, forms of complaints, annual reports, principal legal positions, Bulletin of Legal Practice of the CPR³⁵⁵ and thematic publications. The decisions of the Administrative Court (second instance in the review system) are not published, however, which leads to a value of 4 in the respective indicator.

In Serbia, a proper regulatory framework and institutional set-up for handling complaints is in place. The remedies system covers the traditional and utilities sectors. The CPR is facing a constantly growing number of complaints. Access to the review system is not restricted by excessive costs.

³⁴⁶ Public Procurement Law, Article 146, and Rules of Procedure of Republic Commission for Protection of Rights in Public Procurement Procedures.

³⁴⁷ Republic Commission for the Protection of Rights in Public Procurement.

³⁴⁸ Republic Commission for the Protection of Rights in Public Procurement.

³⁴⁹ Republic Commission for the Protection of Rights in Public Procurement.

³⁵⁰ Meetings with contracting authorities, non-governmental organisations.

³⁵¹ All data based on Q71209.

³⁵² Official Gazette No. 111/09.

³⁵³ Republic Commission for the Protection of Rights in Public Procurement, detailed analysis of the following randomly selected judgements of Administrative Court in Belgrade: No. 9U17500/12, date 8 February 2013, No. II-4 U15215/12, date 18 March 2013, No. III-3 U16268/14, date 5 March 2015.

³⁵⁴ <http://www.kjn.gov.rs/>.

³⁵⁵ <http://www.kjn.gov.rs/en/bilten-republicke-komisije.html>

Key recommendations

Short-term (1-2 years)

- 1) The CPR should ensure the timeliness of complaint processing.
- 2) The Government should ensure that contracting authorities have access to judicial review against CPR decisions.

Medium-term (3-5 years)

- 3) The CPR and the Administrative Court (second instance in the review system) should publish the Court's judgements.
- 4) The Government should endeavour to make the remedies system more effective and efficient, and ensure the rapid handling and resolution of complaints.

2.7. Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market.

Baseline values

The key requirement for an efficient public procurement system, based on professional, value-driven and integrity-conscious management functions in contracting authorities, is examined through a set of quantitative indicators describing the performance of the public procurement market. Three qualitative indicators describe the presence and performance of modern procurement tools, the existence and availability of guidelines and the professionalisation of procurement officials. The indicator on the use of modern procurement techniques and methods describes the presence and performance of modern tools: e-procurement, framework agreements and establishment of central purchasing bodies and arrangements.

In Serbia, framework agreements are widely used, while the degree of e-procurement penetration within the procurement system is still low as only notices are published on the Internet. Most contracts are awarded in an open procedure. Key materials for helping contracting entities to comply with procedural regulations are available. Both the contracting authority and the bidder tend to lack professional skills.

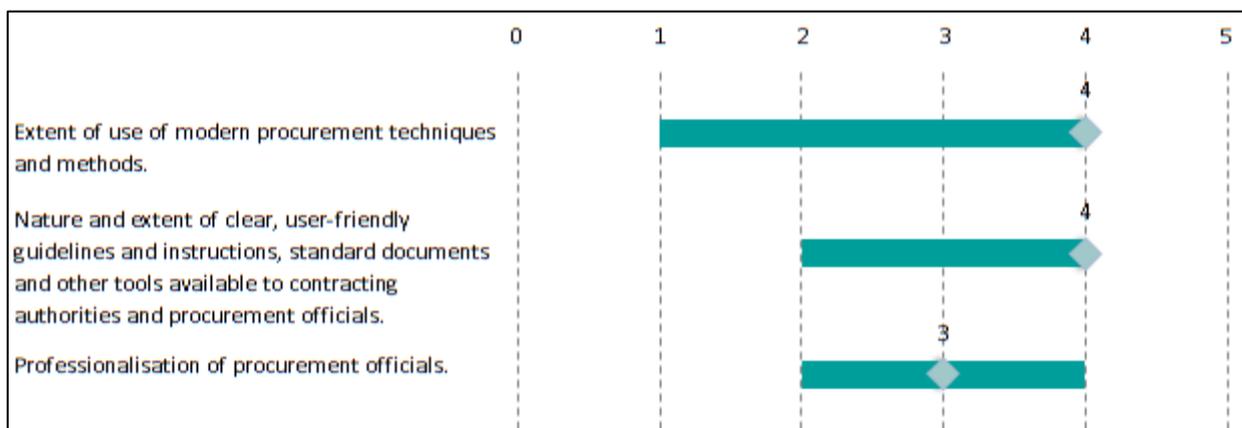
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	13	Extent of use of modern procurement techniques and methods.	2014	4
	14	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	2014	4
	14	Professionalisation of procurement officials.	2014	3

Serbia
Public Financial Management

Quantitative	13	Share of contracts already announced in published procurement plans or indicative notices.	2014	4.5%
	13	Share of contracts awarded by competitive procedures.	2014	95%
	13	Share of contracts awarded based on acquisition price only.	2014	74%
	13	Share of contracts amended after award.	2014	2%
	13	Share of contracts subject to formal post-evaluation.	2014	Not available ³⁵⁶
	13	Average number of tenders submitted per goods contract to be procured.	2014	2.7
	13	Average number of tenders submitted per works contract to be procured.	2014	2.7
	13	Average number of tenders submitted per services contract to be procured.	2014	2.3

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 10. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

Most contracts are awarded in an open procedure³⁵⁷. In 2014, the share of negotiated procedures without prior publication of a notice decreased significantly. In 2013 the value of procurement

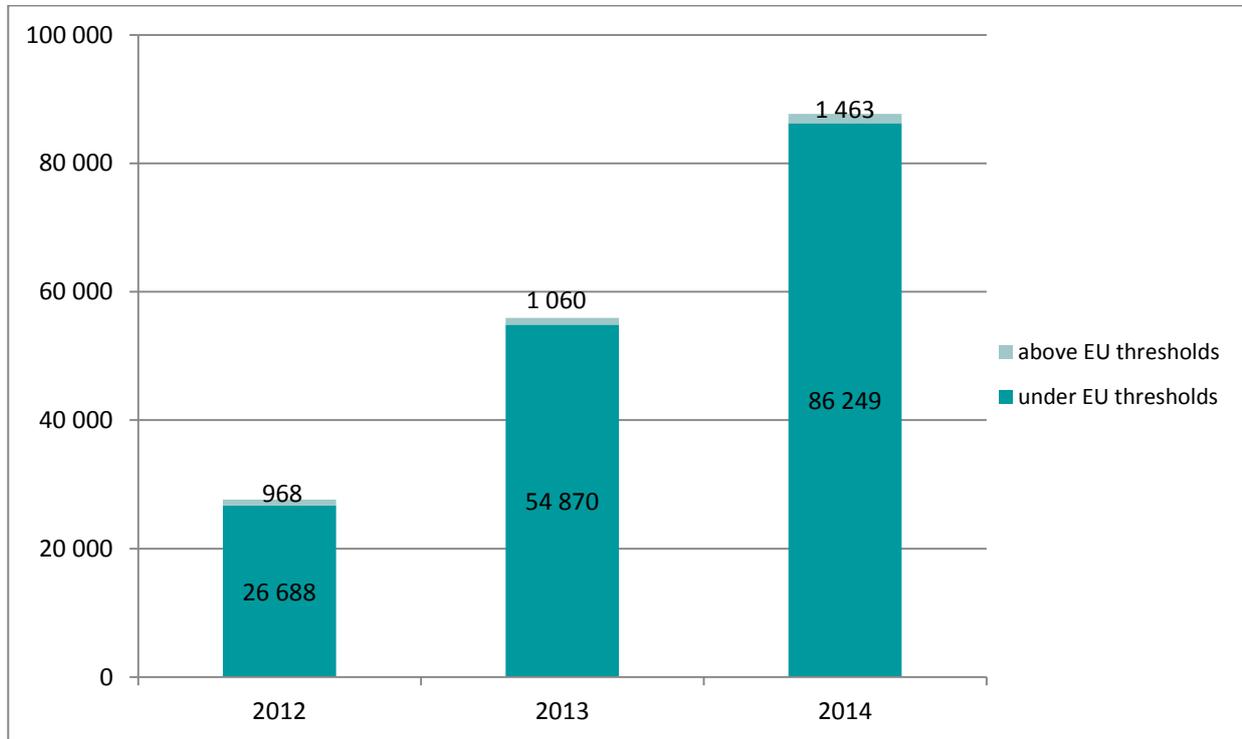
³⁵⁶ No information was provided for the analysis.

³⁵⁷ According to the Public Procurement Office Report on Public Procurements in the Republic of Serbia for 1 January 2014-30 June 2014, 86% of the total value for procurement above RSD 3 million was awarded in open tenders.

Serbia
Public Financial Management

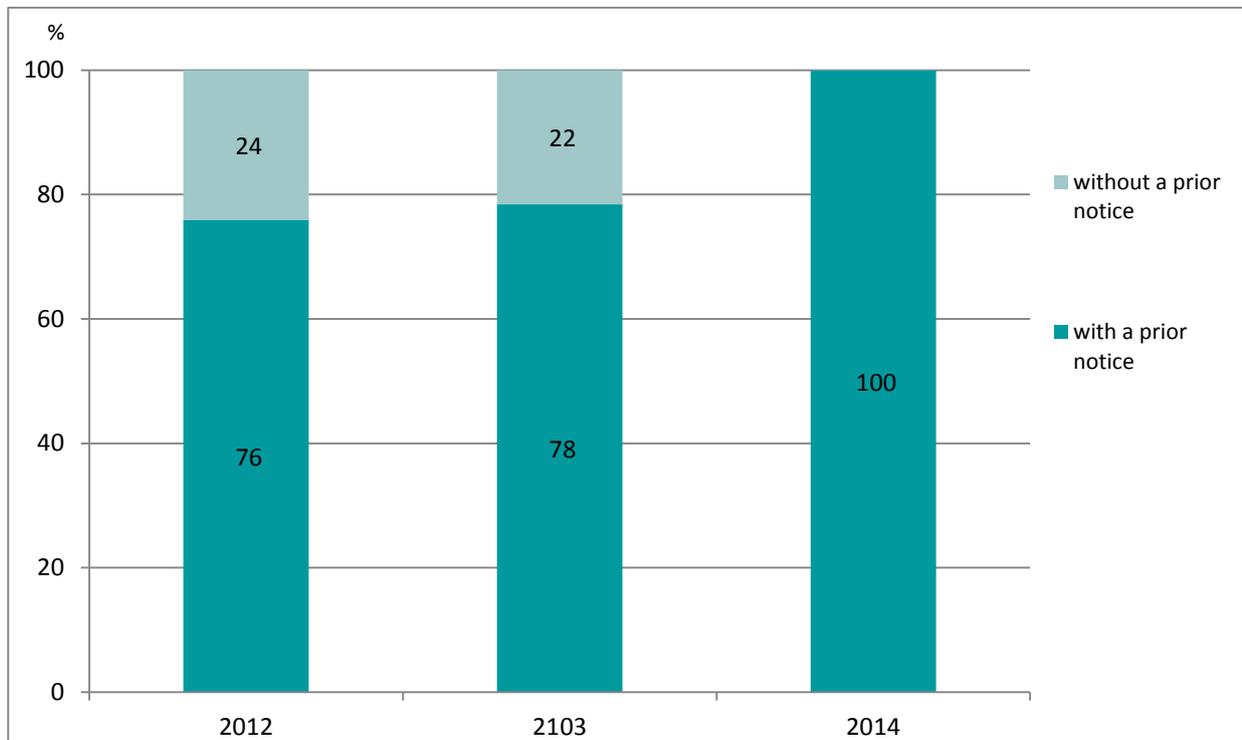
conducted in negotiated procedures without notice accounted for 17% of the total value, while in 2014 it was only 5%³⁵⁸. This positive change is a result of setting up the mechanism of obtaining PPO opinions in advance.

Figure 11. Number of procurement procedures with a prior publication of a notice



Source: Public Procurement Office.

Figure 12. Total value of contracts awarded with and without prior publication



Source: Public Procurement Office.

³⁵⁸ Public Procurement Office data.

Serbia
Public Financial Management

The relatively high share of procedures that do not use the lowest price criterion exclusively (36 877 procedures of 49 910 published³⁵⁹) indicates that public procurement officers are interested in achieving the objectives of procurement rather than the lowest possible expenditure. However, a more detailed analysis reveals that the most popular award criteria - time of delivery or service performance, guarantee period, and method of payment - still focus on the economic aspects of procurement³⁶⁰.

In 2104, the average number of bids submitted per tender was 2.6³⁶¹. The competitiveness in the procedures with prior publication is at a medium level compared with the EU average³⁶² and decreased in the past year (the 2013 PPL did not help to attract more businesses).

Table 2. Average number of bids submitted per tender³⁶³

	2012	2013	2014
All contracts	2.7	2.7	2.6
Services	2.3	2.4	2.3
Supplies	2.7	2.7	2.7
Works	3.2	3.6	2.7

Source: Public Procurement Office.

³⁵⁹ According to the Public Procurement Office, the data refers to the number of the published contracts without the small value contracts (contracts of value less than RSD 3 million.)

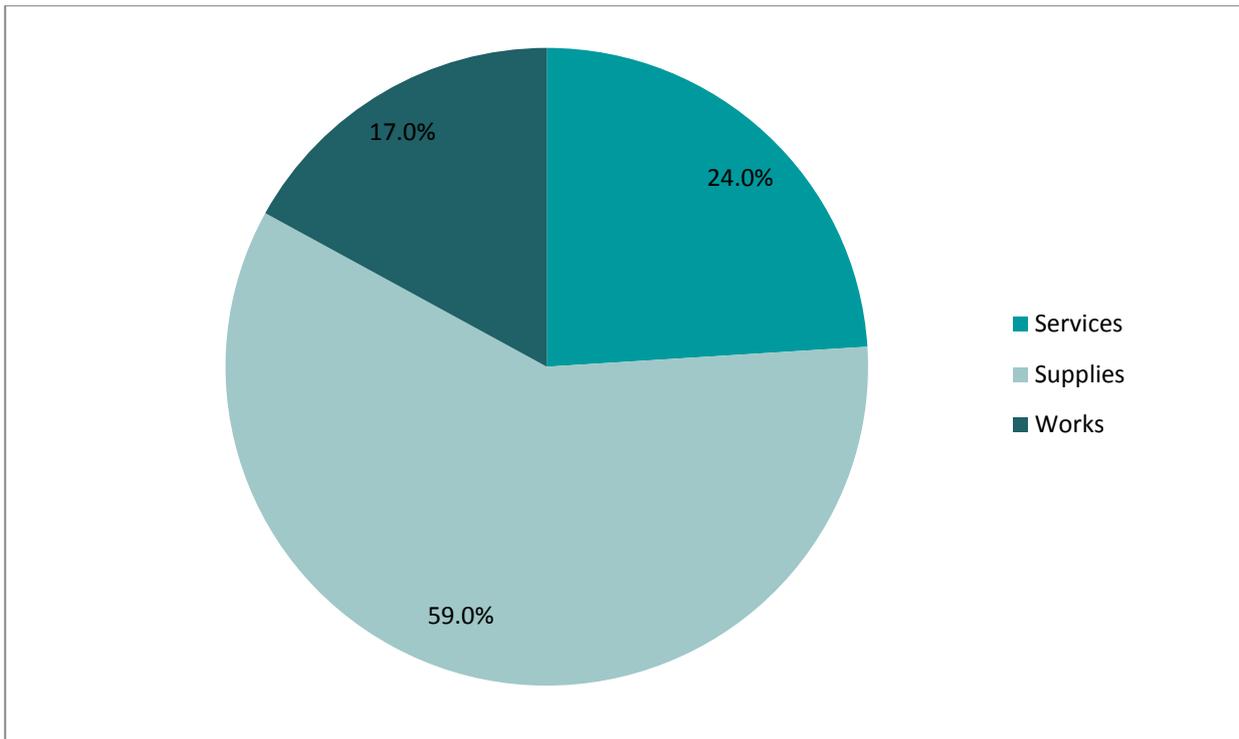
³⁶⁰ Public Procurement Office.

³⁶¹ Public Procurement Office data.

³⁶² Most EU-advertised tenders receive between 4 and 6, with an average of 5.4 bids: EU Public Procurement Legislation: Delivering Results - Summary of evaluation report, European Commission, Internal Market and Services, p. 13. http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/executive-summary_en.pdf

³⁶³ For contracts below EU thresholds.

Figure 13. Types of contracts (contract value)



Source: Public Procurement Office.

The procurement performance in contracting authorities is affected by many formal requirements, such as the preparation of quarterly reports on procurement procedures, preparation of detailed plans, internal regulations, etc. In addition, there is a duplication of some activities, such as mandatory publication of notices for procedures of high value in three places (the Public Procurement Portal, contracting authorities' website and the Portal of Official Bulletins). This results in less time spent on core procurement activities. The main problems that the CPR identified³⁶⁴ concerned technical specifications, eligibility criteria and evaluation of tenders.

In 2014, 3 352 framework agreements were concluded, for a total value of RSD 26.6 billion (EUR 226 million)³⁶⁵, which reflects end users' great interest in and recognition of the advantages of this approach.

Framework agreements are often used for the performance of centralised purchases. In addition to the Administration for Joint Services of Republic Bodies, which plays the role of a central purchasing body for the purposes of national authorities and organisations, including judicial authorities, joint procurement is also possible: in the first half of 2014, the PPO issued 90 opinions on the joint conduct of public procurement by multiple contracting authorities³⁶⁶.

In relation to e-procurement, the functions of e-noticing and e-tender documentation are in place. The PPL provides for the use of e-auctions³⁶⁷, but no activity in the field was observed. The use of a joint procurement mechanism, including the establishment and functioning of the central procurement body³⁶⁸, leads to a value of 4 for the relevant indicator.

³⁶⁴ Report on the Work of the Republic Commission for Protection of Bidder's Rights for 1 January 2014-30 June 2014.

³⁶⁵ Public Procurement Office.

³⁶⁶ Public Procurement Office Report on Public Procurements in the Republic of Serbia in the period 1 January 2014-30 June 2014.

³⁶⁷ Articles 42-47.

³⁶⁸ The Administration for Joint Services of the Republic Bodies.

While legal provisions are foreseen, e-auctions and a dynamic purchasing system³⁶⁹ have thus far not been used. Framework contracts are used beyond the purpose of centralised purchasing. Most contracts are awarded in an open procedure. In 2014, the share of negotiated procedures without publication decreased significantly.

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

Practical guidelines and tools that the PPO issues support the planning and conducting of the procurement procedure. The contracting authorities are not obligated to follow the standard PPO tender documentation, although the templates are often used. The templates and guidelines focus mainly on the formal aspect of procedures, and not enough attention is given to promoting performance-oriented practice. Materials are not available on taking a modern approach to procurement, such as on green or social procurement, or promoting the value-for-money principle or a whole-lifecycle-cost approach. The existence of the above-mentioned documents and additional opinions, training materials and reports gives a value of 4 on this relevant indicator.

According to Article 134 of the PPL, the ability to perform procurement tasks in each contracting authority should be defined. In contracting authorities that spend more than RSD 21 million (about EUR 175 000) per year at least one procurement officer should be employed, i.e. a person trained to perform the procurement tasks.

According to reported data, less than 25% of public procurement officials have at least a bachelor's degree covering specifically public procurement³⁷⁰, and there is no monitoring of the actual level of education³⁷¹. The PPO started to provide training and exams for procurement officers in the last months of 2014. The programme for professional training and examinations for procurement officers is defined in the Regulation on the professional training programme and the method of examination for public procurement officers³⁷². It covers mainly the procedures envisaged by the PPL, focusing on formal compliance with the provisions. The PPO further elaborated the Manual³⁷³ for officers preparing to undertake the training and sit for exams. At the end of February 2015, 293 officials had passed the exam³⁷⁴. There is a growing need for training for public procurement officials. Although training is required for procurement officials by law, the PPO is not obligated to organise and deliver it, or the training in preparation for the exam. However, it is involved in the organisation of seminars and conferences for both contracting authorities and economic operators. This situation leads to a value of 3 on the relevant indicator.

Key materials for helping contracting entities comply with procedural regulations are available. Both the contracting authority and the bidder tend to lack professional skills, in particular with regard to introducing new working methods, such as greater centralised procurement, framework agreements, dynamic purchasing systems and e-auctions.

³⁶⁹ Public Procurement Law, Article 3, point 21.

³⁷⁰ Public Procurement Office.

³⁷¹ Public Procurement Office.

³⁷² Official Gazette No. 77/2014.

³⁷³ The Manual was published on the Public Procurement website in February 2015.

³⁷⁴ <http://ujn.gov.rs/ci/sluzbenik.html>.

Key recommendations

Short-term (1-2 years)

- 1) The PPO should promote the use of modern procurement tools such as framework agreements, electronic procurement, and dynamic purchasing systems.
- 2) The PPO should monitor spending that is exempt from PPL provisions, to increase awareness of contracting authorities that exemptions should be interpreted strictly.
- 3) The PPO should monitor and control the quality of the training system.

Medium-term (3-5 years)

- 4) With the assistance of line ministries, the PPO should develop and implement sector-specialised operational tools (e.g. on IT services and supplies, health supplies, road construction, office supplies), such as model tender documents, standard technical specifications, and methodologies for tender evaluation.
- 5) The PPO should reconsider the need to perform all the activities prescribed to contracting authorities surpassing direct procurement functions, to improve the work efficiency.

The PPO and contracting authorities should ensure access to training for procurement officials, to improve the level of competence.

2.8. Key requirement: The constitutional and legal framework guarantees the independence, mandate and organisation of the Supreme Audit Institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that impact on public sector functioning.

Baseline values

The legal framework of the SAI is examined through three quantitative indicators and two qualitative ones by reviewing the Constitution, the legislation governing the SAI, including internal rules and procedures, and other relevant documents. The SAI functioning is examined through three quantitative indicators and one qualitative one by an analysis of relevant documentation. All the data collected has been supplemented by interviews.

In Serbia, there is a good legal framework for the key functions of external audit, including European integration, and the qualitative indicator for the legal framework has a value of 5. All audit reports are published on the SAI website in a timely manner. The indicators for the execution of the SAI budget in 2014 give no cause for concern. There is no data available for a comparison of resources devoted to mandatory audits and audits selected independently by the SAI, but the SAI does not audit all the institutions included in its mandate every year. Furthermore, of the audit recommendations that the SAI made in its 2013 reports for those public institutions it audits, the institutions implemented only 63% by the end of the following year.

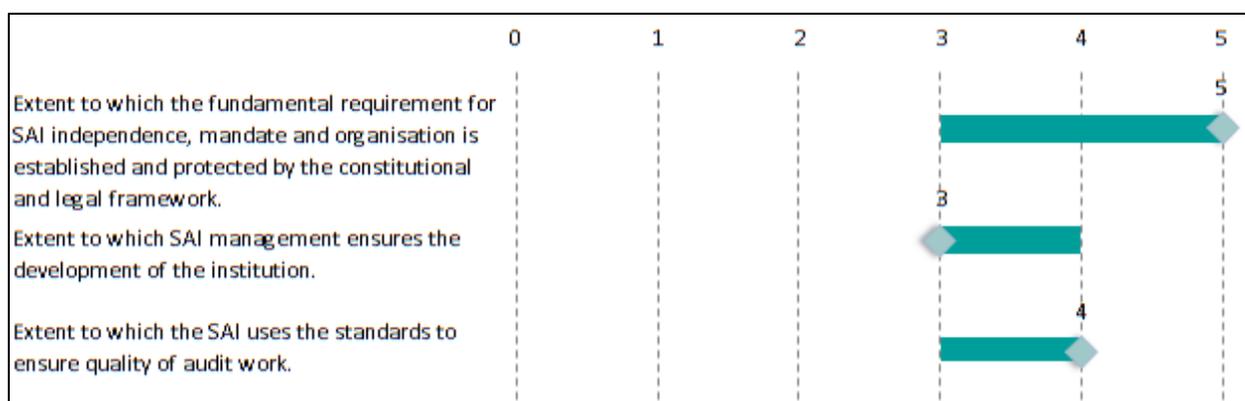
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	15	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	2014	5
	15	Extent to which SAI management ensures the development of the institution.	2014	3

Serbia
Public Financial Management

	16	Extent to which the SAI uses the standards to ensure quality of work.	2014	4
Quantitative	15	Difference between approved budget and realised expenditure of the SAI.	2014	-7.2%
	15	Share of SAI budget in the state Budget.	2014	0.05%
	15	Amount of resources used for mandatory audits compared with resources for audits selected independently by the SAI	2014	Not available ³⁷⁵
	16	Proportion of audit reports published on the SAI website compared with audit reports adopted.	2014	100%
	16	Share of audit recommendations accepted and implemented by auditees.	2013 ³⁷⁶	63% ³⁷⁷
	16	Share of timely audit reports.	2014	100%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 14. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 15: The independence, mandate and organisation of the Supreme Audit Institution are established and protected by the constitutional and legal framework and are respected in practice.

³⁷⁵ The SAI could not provide this data.

³⁷⁶ Year 2014 data not available.

³⁷⁷ This percentage relates to the implemented recommendations, the percentage of recommendations accepted by auditees is 100.

Serbia
Public Financial Management

The Constitution³⁷⁸ provides sufficient overall independence for the SAI. This independence is further reinforced in the SAI Law³⁷⁹, which stipulates that the SAI is the supreme state body for the audit of public funds in Serbia. The audit mandate³⁸⁰ is exhaustive, and the SAI is empowered to undertake financial, compliance and performance audits, in accordance with national and international auditing standards.

The SAI Law³⁸¹ provides independence for the SAI Council Members (including the Auditor General), and no members of the Council have been removed from office since the SAI's establishment. The terms of office of the SAI Council members³⁸² are relatively short, at five years, with the possibility of election by Parliament no more than twice. In addition, a vote of only 20 members of Parliament is necessary to raise an initiative for their dismissal, though a parliamentary vote is also required for their exclusion from office.

It is clear that the SAI independence, mandate and organisation are established and protected by the constitutional and legal framework, and that they are respected. Therefore, the value for this indicator is 5.

The SAI has a Strategic Development Plan 2011-2015, which was drafted with the assistance of the Office of Auditor General of Norway and is published on the SAI website³⁸³. The SAI reviews and reports on progress to the Parliament in its annual activity report.

The SAI Council prepares and adopts its financial plan³⁸⁴ in accordance with the Budget framework established by the Government and proposes this plan to the Parliament for approval. The Parliament has approved the SAI's requests for funds, which have taken into account the austerity restrictions imposed for the whole of government. The SAI reports its findings to the Parliament³⁸⁵. The Parliamentary Committee charged with the oversight of the SAI reports meets the SAI to consider the reports, although these meetings do not involve the auditees.

The SAI has management and supporting structures allowing it to implement its mandate³⁸⁶. The responsibility for managing audit staff in all major categories is clearly assigned in the annual audit plan. The SAI improves the professional development of its members and staff by a certification training programme that it provides for State Auditors and Certified State Auditors³⁸⁷. The SAI also provides ongoing training for its staff, although there is no training-needs analysis as such and the SAI Council does not monitor or evaluate the results of training audit staff and support staff annually because this is the responsibility of the Auditor General.

Based on the factors above, the value of the indicator on the extent to which SAI management ensures the development of the institution is 3.

The independence, mandate and organisation of the SAI are established and protected by the Constitution and the Audit Law. As the activities of the SAI expand and its reports gain in importance, it may be subject to political pressures but this has not happened so far.

³⁷⁸ The Constitution of the Republic of Serbia, Article 96 (Official Gazette No. 98/2006).

³⁷⁹ Law on the State Audit Institution, November 2005 (Official Gazette No. 101/05); Amending Law, May 2010 (Official Gazette No. 36/10).

³⁸⁰ SAI Law, Articles 9 to 11.

³⁸¹ SAI Law, Articles 19 to 24.

³⁸² SAI Law, Article 20.

³⁸³ http://www.dri.rs/upload/documents/Opsti_dokumenti/Strateski%20plan%2012122011_ENG.pdf

³⁸⁴ SAI Law, Article 51.

³⁸⁵ Constitution, Article 96; SAI Law, Articles 43 to 46).

³⁸⁶ SAI Law, Article 6 for SAI Rules of Procedure; and Article 12 for SAI Systemisation.

³⁸⁷ SAI Law, Article 61 for Rulebook on Examination Programme.

Principle 16: The Supreme Audit Institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

The SAI Law provides for the audit process, audit reporting and quality control³⁸⁸. In April 2015 the Auditor General formally adopted manuals covering financial and compliance audits, performance audits and quality control. Also, internal guidelines are in place for audit work based on International Standards of Supreme Audit Institutions and with clearly defined responsibilities. The SAI audit reports which have been examined show that the audit work undertaken meets national and international auditing standards. For 2014, the SAI submitted 135 reports to the Parliament, of which 73 covered complete sets of financial statements. The reports provided audit opinions for both financial and compliance audits. Only three reports provided “unqualified” opinions. In 2014, the SAI also submitted its first performance audit to the Parliament. In February 2015, the Parliamentary Committee on Finance, State Budget and Control of Public Spending established a sub-committee to consider SAI reports.

Staff resources have been limited since the establishment of the SAI and totalled 223 as of December 2014, including 5 SAI Council Members and 32 support staff. The authorised staffing level is 431, of which 370 should be audit staff. Therefore, the SAI Council undertakes a risk-based approach for its annual audit planning process to ensure the SAI discharges its mandate as effectively as possible. The Council assesses the implementation of the annual plan and in 2014, 135 audit reports were planned and completed.

The SAI must submit³⁸⁹ to the competent authority, without delay, any evidence relating to misdemeanours or criminal offences, and that body is required to inform the SAI of its decision. The time required to prepare the evidence for such cases is significant and reduces the time available for audit staff to undertake financial and performance audits, but the public has high expectations of successful prosecutions. The SAI Law³⁹⁰ also requires the auditee to report to the SAI on the elimination of detected irregularities or deficiencies that had not been eliminated during the course of the audit. The SAI monitors progress by auditees on the implementation of its recommendations every year and has published four reports on the progress. In 2013 (latest information available), the SAI made 1 044 recommendations in its reports but established that only 657, or 63%, were implemented by the end of the next calendar year.

Based on the factors above, the value of the indicator on the extent to which the SAI uses international standards to ensure the quality of its work is 4.

The SAI publishes audit reports that meet national and international auditing standards, although it does not audit all institutions within its mandate every year. The SAI management has mitigated the impact by applying a risk-based approach for the audit planning decisions taken each year. The number of recommendations implemented by auditees by the end of the following year is low (63%, compared with a 100% acceptance rate by auditees of the validity of the recommendations in 2013). The time that the SAI takes to initiate “offence procedures” reduces their time available to undertake financial and performance audits.

³⁸⁸ SAI Law, Articles 34 to 42 and Articles 43 to 50.

³⁸⁹ SAI Law, Article 41.

³⁹⁰ SAI Law, Articles 39 and 40.

Key recommendations

Short-term (1-2 years)

- 1) The SAI should take steps to minimise the impact of offence procedures on the time available for audit staff to undertake financial and performance audits.
- 2) The SAI should take further measures to improve the rate of implementation of its recommendations by auditees.
- 3) The SAI should work closely with the Parliament to establish effective arrangements, including awareness-raising events to deal with the number of issues and broad range of public institutions that SAI audit reports cover.

Medium-term (3-5 years)

- 4) The SAI should endeavour to revise the audit law to provide longer terms of appointment for SAI Council members, currently at five years, and to raise the possibility of increasing the minimum number of members of parliament required to initiate the dismissal of SAI Council members.



For more information:

OECD/SIGMA
2 Rue André Pascal
75775 Paris Cedex 16
France

mailto: sigmaweb@oecd.org
Tel: +33 (0) 1 45 24 82 00
Fax: +33 (0) 1 45 24 13 05

www.sigmaweb.org