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SIGMA Monitoring Reports

# Public administration in Montenegro 2024

Assessment against the Principles of Public Administration



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Assessment against the Principles of Public Administration

This report provides analysis on how Montenegro performs based on the standards set by the Principles. It covers the six thematic areas of the Principles (strategy, policy development and co-ordination, public service and human resource management, organisation, accountability and oversight, service delivery and digitalisation, and public financial management) and provides indicator values and comparison of overall trends across the public administration.



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This report was approved by the OECD Public Governance Committee via written procedure on 20 December 2024.

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**SIGMA Monitoring Reports** - ISSN: 3078-8420 (online) | <https://doi.org/10.1787/9c2f22f8-en>

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# Table of contents

Abbreviations and acronyms	4
Introduction	6
Executive brief	8
Strategy	13
Summary and recommendations	14
Analysis	16
Policy development and co-ordination	19
Summary and recommendations	20
Analysis	23
Public service and human resource management	41
Summary and recommendations	42
Analysis	45
Organisation, accountability and oversight	63
Summary and recommendations	64
Analysis	67
Service delivery and digitalisation	85
Summary and recommendations	86
Analysis	89
Public financial management	105
Summary and recommendations	106
Analysis	110
Budget management	110
Internal control and audit	118
Public procurement	123
External audit	136
Financing of local governments	139

## Abbreviations and acronyms

AIA	Administration for Inspection Affairs
APC	Agency for Prevention of Corruption
CLRAE	Congress of Local and Regional Authorities of the Council of Europe
CoG	Centre of government
CPRPPP	Commission for Protection of Rights in Public Procurement Procedures
CRCB	Central Register of Contributors and Beneficiaries
CSL	Law on Civil Servants and State Employees
DPP	Department of Public Procurement Policy
ECLSG	European Charter of Local Self-Government
EI	European Integration
FPG	Fiscal Policy Guidelines
GDP	Gross domestic product
GAHRI	Global Alliance of National Human Rights Institutions
GAWP	Government Annual Work Plan
GDPR	General Data Protection Regulation
GSG	General Secretariat of the Government
HR	Human resource
HRM	Human resource management
HRMIS	Human resource management information system
IAU	Internal audit unit
ICT	Information and communication technology
IDI	International Development Initiative
IMC	Inter-municipal co-operation
INTOSAI	International Organization of Supreme Audit Institutions
IPA	Instrument for Pre-accession Assistance
IPPF	International professional practice framework
ISSAI	International Auditing Standards of Supreme Audit Institutions
IT	Information technology
LAI	Local Autonomy Index
LAP	Law on Administrative Procedures
LFAI	Law on Free Access to Information
LBFR	Law on Budget and Fiscal Responsibility
LSA	Law on State Administration
LSEPS	Law on the Salary of Employees in the Public Sector

LSG	Law on Local Self-Government
MIA	Montenegrin Investment Agency
MoF	Ministry of Finance
MP	Member of Parliament
MPA	Ministry of Public Administration
MTBF	Medium-term budget framework
NGO	Non-governmental organisation
NIS	Network and information security
OGP	Open Government Partnership
PAR	Public administration reform
PFM	Public financial management
PIFC	Public internal financial control
PPL	Public Procurement Law
PPP	Public-private partnership
PPPL	Public-Private Partnership Law
RIA	Regulatory impact assessment
SAI	State Audit Institution
SOE	State-owned enterprise
ToC	Table of concordance
TPM	Top public management
TSA	Treasury Single Account
TQM	Total quality management
UNDP	United Nations Development Programme

# Introduction

## The Principles of Public Administration and the European integration path: Measuring the fundamentals

*The Principles of Public Administration*<sup>1</sup> sets out what good public governance entails in practice and outlines the main requirements to be followed by countries during the European Union (EU) integration process. Good public governance is key for achieving economic growth, competitiveness and better quality of life. Democratic governance and the rule of law require capable, accountable and effective public administration. In its 2014 Enlargement Strategy, the European Commission (EC) highlighted public administration reform (PAR) as one of the “fundamentals” of the EU enlargement process. The 2023 EC communication on the EU Enlargement Policy reaffirms this conviction: “The functioning of democratic institutions and public administration reform continue to be among the three fundamentals for the EU accession process.”<sup>2</sup>

## Overall approach: Focus on implementation and results, analysing a variety of primary data sources against precise criteria and benchmarks for an objective and balanced assessment

The updated 2023 edition of *The Principles of Public Administration* reflects the most recent international standards, applicable EU *acquis* and citizen expectations for modern public administration in Europe. Endorsed by the OECD and the European Commission, it covers the same broad scope and thematic areas as the previous edition.

The *Assessment Methodology of the Principles of Public Administration*<sup>3</sup> contains a set of standard indicators that SIGMA applies consistently to measure the state of play against the Principles, including the preconditions and enablers for successful reforms (appropriate laws, policies, procedures, institutional structures and human resources); the public administration’s actual implementation practices; and subsequent results (how the administration performs in practice). In the new *Assessment Methodology*, more than half of all criteria focus on implementation practices and results.

While the overall approach recognises that no single measurement method can fully cover the complex issues related to all organisational and behavioural aspects of public administration, SIGMA relies on information from a comprehensive range of sources: administrative data from public registries; national statistics; legislation reviews and government reports; citizen, business, public servant and contracting authority surveys; case reviews of sample government documentation; and over 100 interviews with public servants and civil society. This information is cross-checked and triangulated to arrive at a balanced assessment.

<sup>1</sup> OECD (2023), *The Principles of Public Administration*, OECD, Paris, <https://www.sigmaweb.org/publications/Principles-of-Public-Administration-2023.pdf>.

<sup>2</sup> European Commission (2023), *2023 Communication on EU Enlargement Policy*, p. 2, [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/COM\\_2023\\_690%20Communication%20on%20EU%20Enlargement%20Policy\\_and\\_Annex.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/COM_2023_690%20Communication%20on%20EU%20Enlargement%20Policy_and_Annex.pdf).

<sup>3</sup> OECD (2024), *Assessment Methodology of the Principles of Public Administration*, OECD, Paris, <https://www.sigmaweb.org/publications/Assessment-Methodology-Principles-Public-Administration.pdf>.

## A regional series with long-term perspective

This monitoring report assesses the state of play in public administration and progress in improving its quality. Given the geostrategic importance of the Western Balkans to the European Union and the ongoing EU accession negotiations, SIGMA conducts regular monitoring of the region. While SIGMA's assessments in 2015, 2017 and 2021 covered the full scope of the Principles of Public Administration, this 2024 report also addresses all Principles and provides a comprehensive and detailed picture of the state of public administration in the region.

This report is based on the *Assessment Methodology* developed to accompany the updated Principles of Public Administration (2023). While the narrative sections clearly describe developments since the last assessment and enable comparisons with previous monitoring, the significant methodological differences between this report and previous ones make comparisons of indicator values inapplicable.

## Key insights and recommendations for decision makers, and detailed performance data for practitioners

Thirty-two Principles make up the framework for the six thematic areas, and each Principle has one or two indicators. There are 36 indicators in total, with 289 sub-indicators and 1 732 individual criteria. Indicator values for each Principle are presented at the top of every overview table, ranked on a scale of 0 (lowest) to 100 (highest) and based on the total number of points received for the sub-indicators.<sup>4</sup> The indicator values provide a comparative picture of the state of play as of 30 June 2024.

The structure of the report mirrors that of the Principles. Each Principle contains a dedicated overview of associated indicator(s) and a summary analysis of the main strengths and weaknesses. Analytical findings and the most relevant recommendations are provided to guide reform efforts and inform the policy dialogue and discussions within the government administration and between the European Commission and the Government.

SIGMA provides an executive brief and summaries for each of the six thematic areas to facilitate understanding at different levels of detail and insight. While the monitoring report shows overall indicator values only, a <https://par-portal.sigmaweb.org/> offers a detailed criteria-level analysis.

SIGMA wishes to thank the Government for its collaboration in providing the necessary administrative data and documentation, as well as for its active engagement during the validation process to ensure the factual accuracy of all information used. We also thank the experts who contributed to this report. Finally, EC partnership and support has enabled SIGMA to prepare this comprehensive long-term focus on public administration reform.

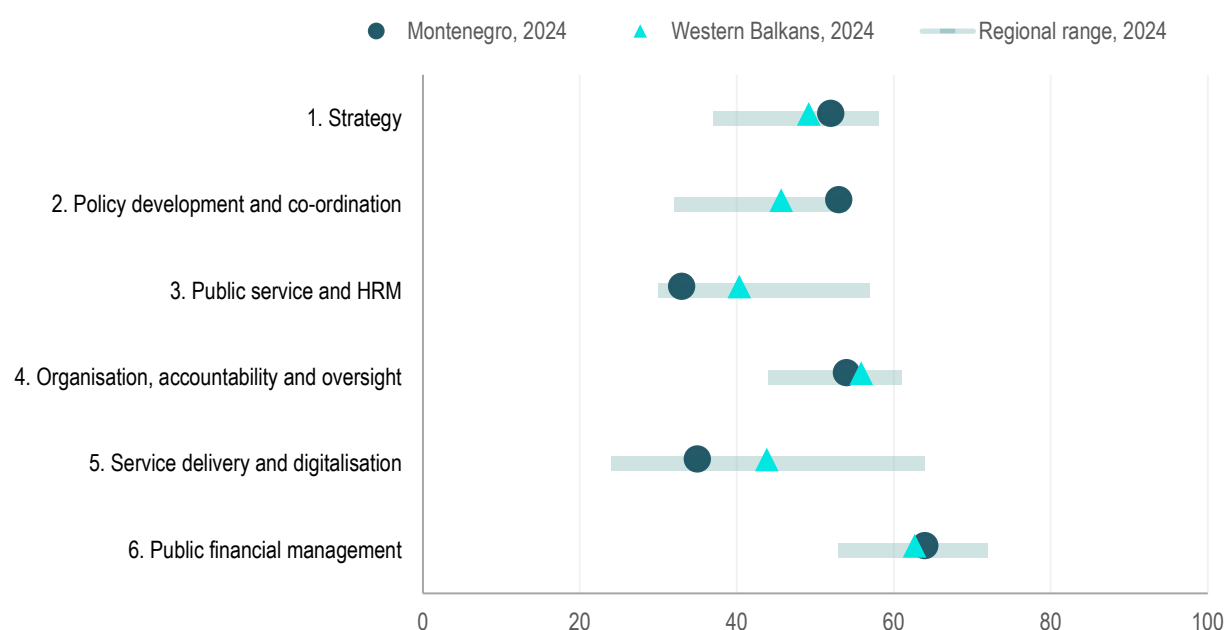
<sup>4</sup> Point conversion tables can be found in the *Assessment Methodology*.



# Executive brief

Since 2021, Montenegro has made some progress on reforms in the areas of strategy for continuous improvement of public administration, policy development and co-ordination, and public finance management. These are also the areas in which compared to its neighbours in the Western Balkans, Montenegro is exceeding the regional average. In other areas, reforms have stalled and are at or below the regional average. This is the case especially for public service and human resource management (HRM), as well as service delivery and digitalisation.

**Figure 1. Overall state of play in the functioning of public administration**



Notes: The area average is a simple average of the Principles within the area. Western Balkan average is calculated as a simple average of all administrations.

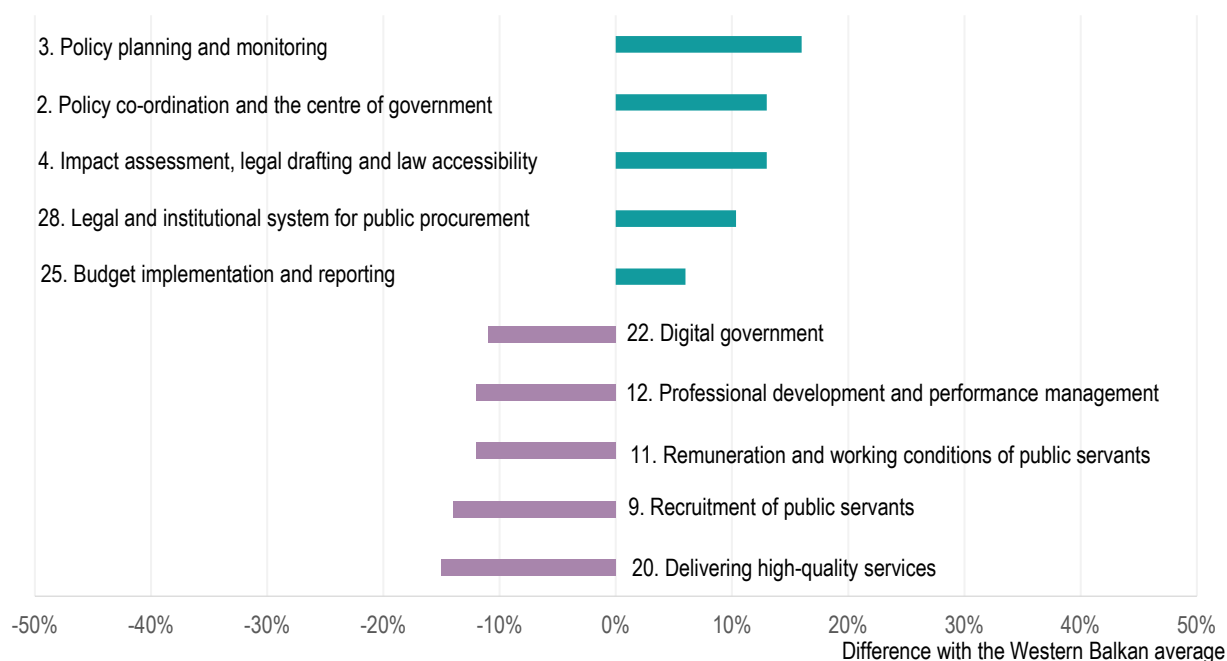
The adoptions of the Public Administration Reform (PAR) Strategy in December 2021 and the Public Financial Reform Programme in December 2022 marked a clear improvement in the clarity of Montenegro's reform direction. Implementation and monitoring structures have been created for both with EU support, completing the pre-conditions for successful reforms.

Several recent legal activities of the Government could not yet be recognised in this monitoring report, but they address long-standing concerns of alignment with the Principles. This is the case for the Law on Civil Servants and Public Employees, which is currently being revised, as are the Law on Access to Information and the Law on Local Self-Government. A new law for local civil servants and public employees is also being drafted.

Positive developments can be noted in the management of public finances, with strengthened fiscal policy guidelines, an improved legal framework for capital budgeting, the creation of the legal basis for a Fiscal Council and further development of the e-procurement system. The Ministry of Finance is currently developing long-pending strategic guidance documents, such as the Fiscal Strategy and the Debt Management Strategy, which will further strengthen the regulatory framework for fiscal management.

At the level of the Principles, compared to the Western Balkan average, Montenegro is demonstrating a relatively strong state of affairs in policy planning and co-ordination and the implementation of the regulatory impact assessment (RIA). In public financial management, this is the case in budget reporting, as well as the legal and institutional system for public procurement, as shown in Figure 1. On the other hand, several of the Principles in public service and HRM have considerable space for improvement, such as recruitment, remuneration and working conditions, as well as professional development and the performance of civil servants. Delivering high-quality services and the requirements for digital government are below the regional average (Figure 2).

**Figure 2. Principles with highest and lowest indicator values compared to the Western Balkan average**



Notes: Green bars show the five highest indicator values. Purple bars show the five lowest indicator values.

There are some notable systemic challenges that the administration of Montenegro is facing:

- Implementation of the PAR Strategy is low.
- HRM capacities are weak, and top management structure is unstable, with significant deficiencies in merit-based recruitment.
- The organisational typology established in the law is not respected, and accountability based on clear objectives and the performance management of agencies is absent.
- The quality and digital accessibility of services remains low; Montenegro lags regional peers who have made good progress.
- There is relatively low implementation of oversight institutions' recommendations and lack of parliamentary support for these institutions.
- Practical implementation of existing legal requirements for managing public finances lags behind in several areas.

## Strategies for the continuous improvement of public administration exist, but implementation and monitoring are still weak

Montenegro has developed a new set of well-designed reform plans that clearly address relevant policy issues and define the PAR agenda. However, most of the intended improvements in public administration have not yet happened, as implementation has been slow so far. While this can partly be explained by the series of unprecedented crises, such as the COVID-19 pandemic, the related economic slowdown, and the cybersecurity crisis in 2022, the reasons for the low implementation include a lack of incentives for top management to deliver on plans and report about implementation in a timely manner. In addition, the PAR reform plans are not aligned with other important planning documents, such as the Government Work Programme and the National Programme for EU Accession, leading to competing priorities.

## Solid institutional set-up for policy development and co-ordination shows weaknesses in implementation

The Government makes its decisions in a transparent manner, using RIAs and following a functioning policy planning system. There is significant room for improving the consistency and quality of consultations with the public and key stakeholders when preparing new legislative proposals. Ministries have improved capacity for implementing activities planned in strategic plans but struggle to fulfil those strategies' established policy objectives and integrate evaluations into the policymaking cycle. They often fail to adopt necessary bylaws in a timely manner, failing to ensure new legislation can be applied directly.

While EU integration is high on the current Government's agenda, the existing European Integration co-ordination structures have not been fully operational in recent years, and the Montenegro Programme of Accession to the European Union does not have appropriate cost estimates for planned activities. This is just one example of the generally inadequate quality of cost estimates in the policy documentation. Consequently, most EU accession commitments have not been realised.

Parliamentary scrutiny, while well-regulated, is not consistently effective. This is partly due to the unreliable legislative planning of the Government, which makes work planning on the parliamentary side challenging. However, Parliament too often diverts from the standard processes for adopting laws, frequently using urgent procedures. Laws initiated and developed by Members of Parliament do not follow the requirement for public consultations and are not accompanied by RIA reports or proper fiscal impact assessments, which causes specific budgetary risks.

## Public service and HRM face significant challenges

In the area of public service and HRM, most of the shortcomings identified in 2021 remain unchanged. The CSL still does not ensure merit-based recruitment or objective criteria for dismissal or demotion due to reorganisation. Public bodies with typical executive functions, such as regulatory agencies, continue to operate under special legislation that is not aligned with public service principles. These principles are also not adhered to in practice in top public management (TPM), as evidenced by extremely high turnover in these positions, which reached 74% in 2021 after the parliamentary elections of August 2020 and was still 61% in 2023. Merit-based access to TPM is challenged by acting appointments (one-third of the total TPM positions), including appointing persons from outside the civil service without transparent procedures. On the positive side, it should be mentioned that 42% of women are in TPM positions, which is slightly above the OECD average.

HRM capacities across the public administration are limited, and the HRM information system is underdeveloped. Internal and external fairness of salaries is not ensured, and consequently, public servants show high dissatisfaction with the remuneration policy. The HR Administration strives to improve professional development through centralised training and supervision of performance appraisal. However, individual evaluation results lean disproportionately on the side of excellent rates, largely limiting their usefulness.

### **Solid organisational regulations do not prevent accountability and oversight weaknesses in practice**

While the framework legislation on the organisation of public administration provides comprehensive coverage of the central public administration's organisational structure, its practical application continues to lead to accountability issues. Several institutions lack proper accountability to their respective sector ministries, negatively impacting the capacities of the portfolio ministries to lead their respective policy areas. Management of public administration is still not focussed on results but on compliance with formal requirements. While formal guarantees of access to public information are strong, financial incentives for lawyers encourage misuse, disrupting the appeal system. As one of the consequences, the backlogs in the Administrative Court have increased rapidly over the past two years, with an average waiting time of nearly four years for the first instance ruling. The level of implementation of the recommendations of oversight bodies remains low, and Parliament has not properly supported the Ombudsperson and State Audit Institution of Montenegro (SAI) in tackling these challenges. With regard to anti-corruption policy, problems remain, particularly in the system of asset and income declarations. The Law on Administrative Procedures promotes principles of good administrative behaviour but is not consistently implemented across the legal system and in practice.

### **While the strategic framework for better service delivery is in place, the quality and digital accessibility of services remains low**

While the overall quality of public service delivery has not improved in recent years, a notable advancement is the completion and clarification of Montenegro's strategic plans for improving public service delivery to implement the existing legislative framework. Current practices, however, still fall short in several areas: limited digital access to services, insufficient focus on users, inadequate collection and use of user feedback, poor communication of service standards, and inadequate reporting on service performance. There is significant unused potential for integrating services around life events and for providing services proactively, based on data kept in official records, instead of having users request them. While the Government continues to expand the scope of digital services, examined services are mostly traditional and paper-based. The main challenges continue to include consolidating e-services into a single portal and enhancing interoperability between institutions, with a lack of co-ordination and governance mechanisms delaying key activities. The legislative framework also needs further development, including in terms of strengthening cybersecurity and data governance. Regarding the use of digital tools for the functioning of the public administration itself, there is a good level of digitalisation, notably in relation to public sector transparency. However, there are areas where further digitalisation efforts are required.

### **Some progress has been made in public finance management, but much remains to be done**

Some progress has been made in budget management, with improved fiscal policy guidelines, strengthened budget credibility, and some progress made with capital budgeting. However, the medium-term budget framework does not yet guide the annual budget in practice. Although the legal framework for its establishment has existed since early 2023, the Fiscal Council has still not been established. In particular, the commitment control system needs attention and improvement, as does fiscal risk management concerning monitoring responsibilities and accountability arrangements.

While the operational framework for internal control and internal audit is mostly adequate, and co-ordination and professional development, including internal auditor certification work rather well, the functioning of the internal control system in practice is still weak. This relates especially to risk management practices, institutional accountability and irregularity and fraud management, all of which need substantive improvements. Internal auditors' contribution to strengthening the internal control system is limited as they produce few audit reports per year, and the implementation rate of their recommendations is low and decreasing.

The public procurement legislation is well aligned with the EU *acquis*, but its implementation is not always effective. The e-procurement system has been significantly improved, enabling better monitoring of small-value procurement and electronic lodging of complaints. While competitive procedures are the standard method for conducting procurement, the level of competition remains rather low, and price is the dominating award criterion. The capacity of the review body has been strengthened following the appointment of new members.

The constitutional and legal independence of the SAI is well established, with organisational and managerial independence in place. However, the independence and organisation of the SAI have been negatively affected by the failure of Parliament since July 2022 to appoint a president and the fifth member of the SAI. The SAI continues to perform well under its mandate, is in line with international standards, and is working on improving its internal quality management and engagement with external stakeholders. However, Parliament makes too little use of audit reports to hold the Government to account.

The legislative and institutional framework for local self-governments and their financing is well established and is in line with the European Charter of Local Self-Government. However, in practice, municipalities' powers remain limited, and inter-municipal co-operation and consultation with municipalities before government decisions are unsystematic. Many municipalities are overstaffed, and recruitment and HRM lack transparency. The external oversight and internal control systems are not sufficiently effective. The Ministry of Public Administration has acknowledged the need for improvements. Following a comprehensive analysis of the functioning of the local self-government system in 2023, the ministry is drafting a new legal framework.

Local government finances do not cover all responsibilities assumed by the municipalities, and the current equalisation system is ineffective, leading to a level of inequality between municipalities much higher than in most EU countries. Together with insufficient revenue collection and a lack of discipline in financial management, this situation contributes to borrowing and the over-indebtedness of many local self-governments.

### The way forward

Drawing on the comparative weaknesses in the functioning of the public administration and understanding the potential of the Montenegrin administration to implement reforms, the following directions merit the highest level of attention and support:

- The Government should ensure that its policy objectives, as determined in horizontal and sectoral reform strategies, are achieved through timely implementation of plans and thorough review and redirection, if necessary.
- The Government should ensure competitive recruitment of highly competent candidates to top managerial positions and stabilise the top management structure in public administration.
- The Government should accelerate reforms aimed at improving the quality, streamlining and online availability of administrative services to catch up with the progress made by regional peers.



## Strategy

The government ensures a strategic **vision and leadership** for an agile, innovative and continuously improving public administration responsive to new challenges.

### The Principles of Public Administration

- Principle 1** A comprehensive, credible and sustainable public administration reform agenda is established and successfully implemented, fostering innovation and continuous improvement.

## Summary and recommendations

In recent years, Montenegro has developed a new set of strategic planning documents that clearly define the public administration reform (PAR) agenda. The PAR Strategy 2022-2026<sup>5</sup> and the Digital Transformation Strategy 2022-2026<sup>6</sup> were adopted in December 2021, and the Public Financial Management (PFM) Reform Programme 2022-2026 was adopted in December 2022.<sup>7</sup>

The context for the first phase of implementing the PAR planning documents was marked by a series of unprecedented crises, such as the COVID-19 pandemic, the related economic slowdown, and the cybersecurity crisis in 2022. These brought new challenges and incentives for the implementation and review of defined PAR measures. The COVID-19 pandemic necessitated digitalisation of government services. Subsequently, cyber-attacks on the Government's digital infrastructure resulted in significant data loss and damage. This affected the ability to monitor progress on the PAR agenda and other policy areas. These events highlighted the urgent need for the Government to enhance its crisis management capabilities and improve the resilience of its digital systems.

While the PAR planning documents are well-designed and tackle relevant policy issues, implementation rates are still low, limiting the impact of the intended improvements in public administration. The reasons for this include a lack of incentives for top management to deliver on plans and unexpected scenarios in the external policy environment. While formal monitoring and reporting is functional, there have been gaps in the co-ordination of PAR implementation, particularly at the administrative level. A lack of coherence between the PAR planning documents, the Government Work Programme and the National Programme for the EU Accession clouds what is important. In addition, reports on the implementation of PAR planning documents are prepared late in the year.

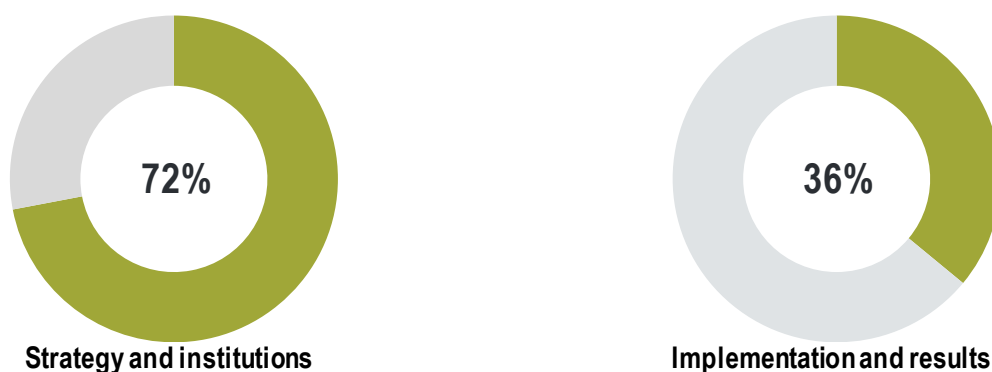
Overall, the existing strategic plans, institutional set-up and related guidance for reform planning and implementation are largely in line with the Principles of Public Administration. However, day-to-day implementation and results in the area include gaps and inconsistencies that limit the effectiveness and impact of the PAR agenda.

<sup>5</sup> The PAR Strategy 2022-2026 and Action Plan 2022-2024 are available at <https://www.gov.me/en/documents/0aaa040b-0413-46b6-a8c7-5b2c10cdc9dc>.

<sup>6</sup> The Digital Transformation Strategy 2022-2026 is available at <https://www.gov.me/en/documents/59dcab9b-b0e8-48b7-830b-6e4eab690521>.

<sup>7</sup> The PFM Reform Programme 2022-2026 is available at <https://www.gov.me/dokumenta/0c37736f-0645-4737-87c1-02b1fb39fd32>.

**Figure 3. State of play by type of criterion in the area of Strategy and continuous improvement of public administration**



Notes: The results are split. The first combines points from legislation, policy and guidance, and institutional set-up. The second aggregates points from implementation practice and results. The percentage in the centre represents the ratio of points in relation to the maximum.

### Recommendations

1. The Government should take the necessary steps to increase the annual implementation rates of the PAR and PFM planning documents.
2. The Ministry of Public Administration (MPA) and the Ministry of Finance (MoF) should ensure regular functioning of the recently confirmed administrative-level co-ordination mechanisms to drive and co-ordinate the implementation process more actively and suggest corrective policy measures to improve the implementation of the PAR agenda.
3. The MPA and the MoF should improve the quality of costing the PAR and PFM measures to ensure clear disaggregation of different sources of funding, with more precise indications of the amount of national budget allocations versus donor funds.
4. In co-ordination with the MoF, the MPA should improve communication about implementing the PAR agenda. This would allow the public, media, civil society and other non-state stakeholders to access more detailed and up-to-date information on PAR and regularly monitor progress.



## Analysis

**Principle 1: A comprehensive, credible and sustainable public administration reform agenda is established and successfully implemented, fostering innovation and continuous improvement.**

Indicator 1. Quality of public administration reform (PAR) agenda		2024 indicator value	52/100
Sub-indicators		Points	
1.	Prioritisation of PAR in key horizontal planning documents	2/8	
2.	Scope and comprehensiveness of PAR agenda	20/23	
3.	Reported implementation rate of PAR agenda	6.7/30	
4.	Management and co-ordination of PAR agenda	9/12	
5.	Monitoring implementation of PAR agenda	7/10	
6.	Stakeholder involvement and communication	5.3/9	
7.	Promotion of innovative practices	1.8/8	

The two main strategies setting the PAR agenda are the PAR Strategy and the PFM Reform Programme. In addition, the Digital Transformation Strategy 2022-2026 and the National Action Plan for the Implementation of the Open Government Partnership (OGP) initiative in Montenegro 2022-2024<sup>8</sup> are defining complementary activities to improve particular aspects of the functioning of public administration in more detail.

The PAR planning documents are generally well-designed, covering the key policy areas within the PAR agenda. These documents feature well-established performance indicators, complete with baseline and target values, enabling effective monitoring of progress towards the set policy objectives. However, detailed indicator specifications for performance indicators are developed for the PAR Strategy only and not for the PFM Reform Programme. The overall accountability for leading the reforms is set, and responsibility for implementing operational activities is allocated to specific government institutions. Costing of the PAR commitments could be improved to ensure more detailed and disaggregated calculations for the identified costs requiring additional financing for implementation.

While most horizontal planning documents include some PAR areas, this is not done coherently and systematically. The Government Programme priorities do not include all PAR areas but focus primarily on digitalising public services and strengthening the management of public finances. PAR and PFM planning are generally consistent with the annual legislative planning of the Government, although inconsistencies exist between the laws planned for adoption in the PAR planning documents and the government legislative (work) plan for the current assessment year. It is not possible to determine the proportion of domestic funding used to implement the PAR agenda. This is due to the absence of clear distinctions between donor contributions and national budget allocations.

The institutional responsibility for key PAR planning documents is clearly assigned to the MPA for the PAR Strategy and the MoF for the PFM Reform Programme. The MPA has a good internal setup to co-ordinate between the co-ordination of strategies, Instrument for Pre-accession Assistance funding and national budget planning and reporting but has not put it to full effect for delivering the PAR objectives within the MoF's competence and beyond.

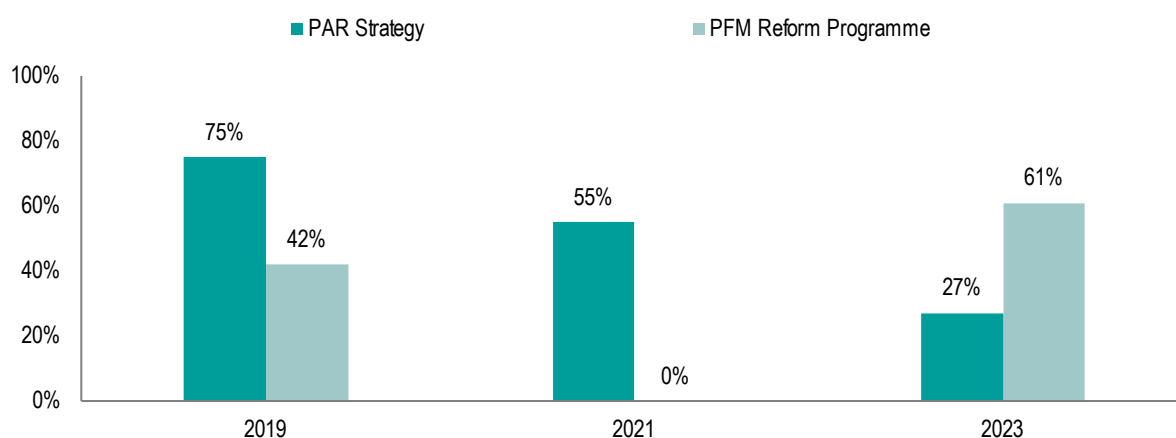
The PAR Council, chaired by the Prime Minister, is responsible for political-level co-ordination of the PAR agenda. This council holds regular meetings, and reports of these meetings are published on the

<sup>8</sup> The National Action Plan for the Implementation of the OGP 2022-2024 is available at [https://www.opengovpartnership.org/wp-content/uploads/2022/12/Montenegro\\_Action-Plan\\_2022-2024\\_December\\_EN.pdf](https://www.opengovpartnership.org/wp-content/uploads/2022/12/Montenegro_Action-Plan_2022-2024_December_EN.pdf).

government website. Despite the PAR Strategy being implemented for over two years and the PFM Reform Programme being adopted more than a year ago, the administrative-level co-ordination mechanisms for both strategies were not fully operational until 2024. This led to significant gaps in co-ordination by the leading ministries and potentially a lack of incentives for implementation and results. The new administrative level co-ordination body for the PFM Reform Programme was established in April 2024 and for the PAR Strategy in July 2024, with first meetings held in June and July respectively.

The reported implementation rate of PAR activities for 2023 is rather low: only 35% of activities planned for 2023 were fully implemented (Figure 4).

**Figure 4. Reported implementation rate of the PAR Strategy and the PFM Reform Programme, 2019-2023**



Note: Data were not available for the PFM Reform Programme 2021.

Source: Annual reports of the above-mentioned strategies.

The reports on the implementation of PAR planning documents are published late in the following calendar year, indicating challenges in co-ordinating the implementation of complex PAR measures. This also limits the usefulness and relevance of the information from the reports for management purposes. The PFM Reform Programme 2022-2026 Annual Implementation Report for 2023 was adopted on 27 June 2024, while the 2023 Report for the PAR Action Plan 2022-2026 was adopted on 4 July 2024.

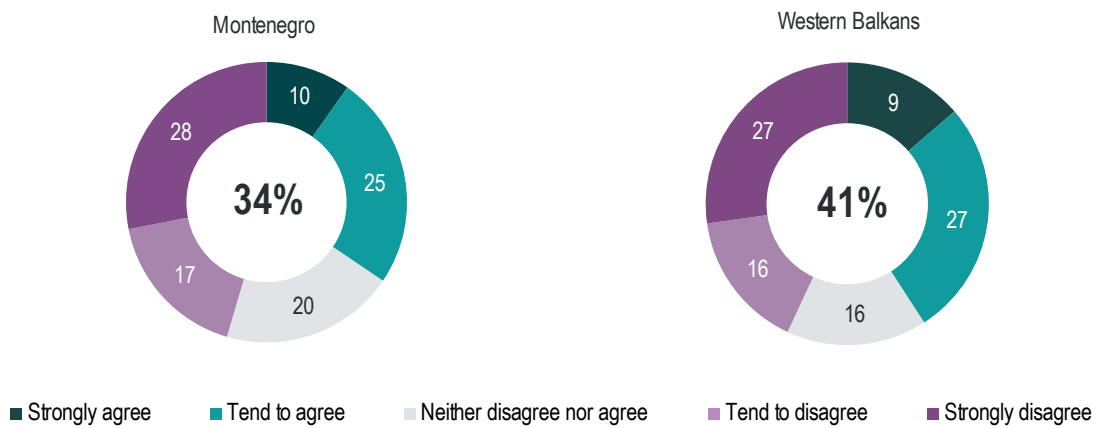
Based on the available reports, the performance indicators are generally linked to objectives and are used to monitor the progress of the PAR agenda by examining their level of achievement. However, despite some relevant media coverage during the planning phase, the public visibility of PAR implementation reports is rather low, and the progress made is not adequately communicated to the wider public and interested stakeholders. Public awareness of the PAR agenda is low, with only 9% of citizens responded "strongly agree" and 23% responded "tend to agree" to the question concerning whether they had seen government information related to the improvement of the public administration's work in the past six months.<sup>9</sup> There is a lack of a coherent and consistent communication strategy on the PAR agenda.

Stakeholder engagement was ensured during the planning of the current strategies, but has been minimal in monitoring the implementation of PAR planning documents. Apart from several non-governmental organisations contributing to the formal sessions of the PAR Council, other non-state stakeholders are not taking part in the discussions on monitoring the implementation of key PAR priorities. Both the PAR Strategy and the PFM Reform Programme went through a public consultation process at the time of their finalisation. In particular for the draft PAR Strategy for which dedicated efforts were made in addition to the regular public call through the eGovernment portal by organising focus group meetings, general public discussions, livestreaming and other means in order to reach different stakeholder groups.

<sup>9</sup> SIGMA Survey of Citizens on public administration in the Western Balkans 2024, conducted in March-April 2024.

Although the government institutions have cases where innovative solutions are tested, often in collaboration with external support projects, innovative approaches and practices in public administration are not sufficiently promoted. The main process for promoting public sector innovation is through annual public sector excellence awards where public servants are recognised for their work in five categories, with innovation being an integral part of two categories: “Excellence in providing public services and public services accessibility” and “Modernisation and digitalisation of public service”. The Methodology for the award identifies and motivates innovative approaches. The percentage of civil servants who think that public sector innovation is well shared is however lower than the average in the Western Balkans, with only 34% “strongly agreeing” or “tending to agree” with the statement that innovative, new practices introduced by colleagues in other departments and institutions are shared across the public administration (Figure 5).<sup>10</sup>

**Figure 5. Civil servant awareness of the sharing of good practices and innovative approaches in public administration, 2024**



Note: Percentage of valid responses to the question: “To what extent do you agree or disagree with the following statement?” “Innovative, new practices introduced by colleagues in other departments and institutions are shared across the public administration” The percentage in the middle is the share of the respondents who answered “strongly agree” or “tend to agree”.

Source: SIGMA Survey of Public Servants on public administration in the Western Balkans 2024.

<sup>10</sup> SIGMA Survey of Public Servants on the functioning of the public administration in the Western Balkans 2024.



## Policy development and co-ordination

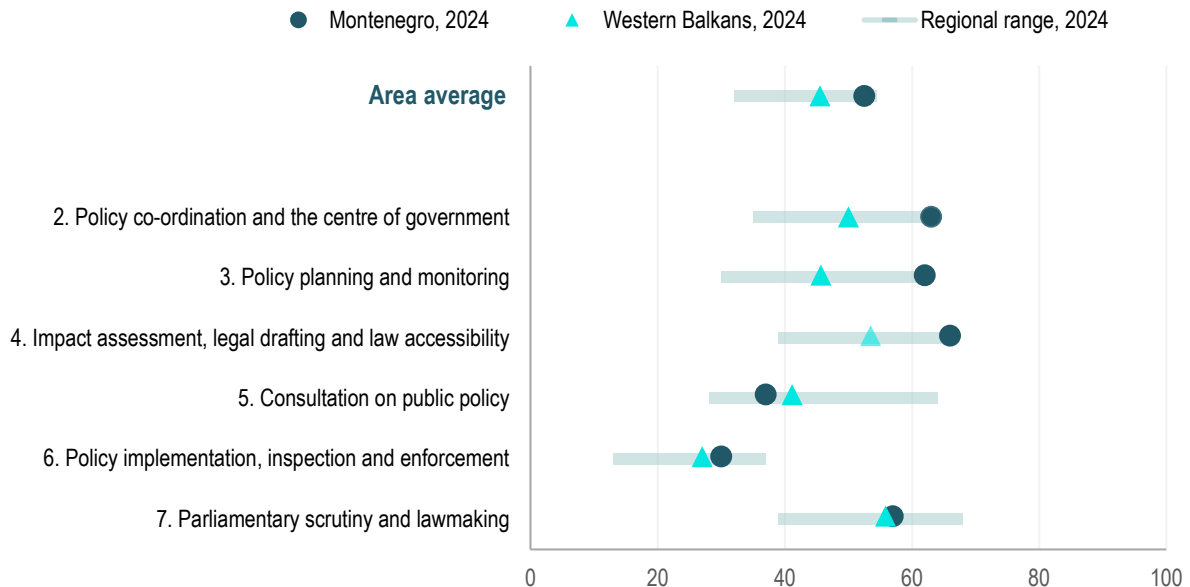
The government ensures that **policies and budgets are harmonised**, effectively planned, co-ordinated across the whole-of-government, implemented, monitored and evaluated against clearly defined policy objectives. Ministries develop coherent public policies through an open and participatory process, informed by sound evidence and analysis.

### The Principles of Public Administration

- Principle 2** Public policies are coherent and effectively co-ordinated by the centre of government; decisions are prepared and communicated in a clear and transparent manner.
- Principle 3** The government plans and monitors public policies in an effective and inclusive manner, in line with the government fiscal space.
- Principle 4** Public policies are developed based on evidence and analysis, following clear and consistent rules for law making; laws and regulations are easily accessible.
- Principle 5** All key external and internal stakeholders and the general public are actively consulted during policy development.
- Principle 6** Public policies are effectively implemented and evaluated, enhancing policy outcomes and reducing regulatory costs and burdens.
- Principle 7** The parliament effectively scrutinises the government policymaking and ensures overall policy and legislative coherence.

## Summary and recommendations

Figure 6. The overall indicator values in the policy development and co-ordination area



Notes: The area average is a simple average of the Principles within the area. The Western Balkan average is calculated as a simple average of all administrations.

In the area of policy co-ordination and development, Montenegro has several strengths. Its centre-of-government (CoG) institutions fulfil their mandate, **Government decision making is transparent; the system for policy planning is well implemented; and the procedures for regulatory impact assessment (RIA) are followed.** There is more space for improvement in consulting the public and key stakeholders when preparing new legislative proposals; policy implementation is hindered by systematic delays in adopting by-laws that clarify the provisions of primary legislation; consolidated versions of applicable law are not easily available; and the legislative work in the Parliament too often diverts from the standard processes for the adoption of laws.

While most **CoG functions have been assigned** to the responsible institutions and are routinely implemented, co-ordination functions for broad-based risk governance to cover a variety of different risks have not been assigned to a single institution. There is a **lack of formal and practical co-ordination between CoG bodies** in the process of reviewing draft policies proposed by ministries, although occasional informal co-ordination takes place. The European Integration (EI) co-ordination bodies are established, but the **existing EI co-ordination structures have not been fully operational in recent years.**

The **status of the key central government planning documents has been well regulated.** However, the hierarchy of these documents has not been fully established. The quality and transparency of policy planning documents are generally satisfactory, but there are still **challenges with the alignment between central policy planning documents.** The **quality of the costing of planning documents is inadequate,** with the Montenegro Programme of Accession to the EU<sup>11</sup> and some sectoral strategies lack appropriate cost estimates for planned activities. **The level of implementation of accession commitments is very low.**

**The government policy for promoting better regulation and evidence-based policymaking, including RIA, is well established.** All RIA reports have been made publicly available on the central

<sup>11</sup> Montenegrin National Programme for the Adoption of the *Acquis* (NPAA).

government website, and the Ministry of Finance (MoF) provides thorough reports about the application of RIA requirements. Some **challenges remain in the consistent implementation of RIA standards** and the low capacities of ministries for analysing, costing and comparing different policy options, as well as in the use of RIA in the early stages of policy development. Business perception of the clarity and stability of government policymaking is low.<sup>12</sup>

Public consultation is required for draft laws and strategies, while there is **no legal obligation to conduct public consultations on draft secondary legislation adopted by the Government**. General standards and guidelines on public consultations are established. Still, there is **no effective central quality control of public consultations conducted by line ministries** when preparing draft acts sent to the Government. **Public consultations are conducted inconsistently**, and the use of a central online platform for public consultations by both ministries and citizens/stakeholders is minimal. The minimum duration for interministerial consultation is not established, and **outcomes of interministerial consultations are not consistently reported** in terms of accepted/non-accepted comments.

The capacities of line ministries for implementing activities planned in sector strategies have improved. However, the **overall rate of fulfilling established policy objectives of sector strategies is still low**. The extent of achievement of targets of ministries' work plans cannot be established due to outdated plans or missing reports. The **Guidelines for Policy Evaluation have been developed**, but ministries' capacities to integrate evaluations into the policymaking cycle are limited. There have been some examples of administrative simplification measures, but the visibility of these measures and tools promoting regulatory compliance by businesses is still low.

The regulatory framework for parliamentary scrutiny of policymaking is well established. **Challenges remain in ensuring the effectiveness of parliamentary scrutiny**. The perceived openness and transparency of parliamentary scrutiny of law making by citizens is low.<sup>13</sup> The alignment between planned and submitted Government-initiated draft laws does not allow for proper planning of work by the parliamentary services. The **use of urgent procedures for adopting laws in the Parliament is rather high**. Laws initiated and developed by members of parliament (MPs) do not follow the requirement for public consultations and are not accompanied by RIA reports and proper fiscal impact assessment. The **provision of the Government's opinions on draft laws initiated by MPs is inconsistent**.

Overall, the existing legal framework, institutional set-up and related strategies and guidance are to a larger extent in line with the Principles of Public Administration, while implementation practice and results include more gaps and inconsistencies that limit effectiveness of the government policymaking system.

<sup>12</sup> SIGMA Survey of Businesses on public administration in the Western Balkans 2024, conducted in March-April 2024.

<sup>13</sup> SIGMA Survey of Citizens on public administration in the Western Balkans 2024.

**Figure 7. State of play in policy development and co-ordination by type of criterion**



Notes: The results are split. The first combines points from legislation, policy and guidance, and institutional set-up. The second aggregates points from implementation practice and results. The percentage in the centre represents the ratio of points in relation to the maximum.

### Recommendations

1. The Government should improve the capacities of ministries for legal drafting and enforce the legal obligation to adopt secondary legislation in time as foreseen in the relevant laws adopted by the Parliament.
2. The Government should improve public consultation by enforcing the application of existing rules and procedures and introducing the obligation to conduct public consultations on draft secondary legislation.
3. The Government should strengthen its internal procedures, improve discipline and refrain from the practice of allowing ministers to table regular policy proposals during or just before government sessions.
4. The Government should improve planning, co-ordination and monitoring of the Programme of Accession to the European Union (EU) to achieve higher implementation rates of its commitments.
5. The Government should ensure the alignment between central policy planning documents and improve the overall quality of the costing of commitments planned in policy documents to align better with policy plans and financial affordability.
6. The Parliament should considerably decrease the use of non-standard, urgent procedures to adopt laws.
7. The Parliament should ensure that the draft laws initiated by the MPs go through public consultations and are supported by substantive RIA reports, including fiscal impact assessments.
8. The Government should introduce a system for timely and easy access to consolidated texts of applicable laws and by-laws.

## Analysis

### Principle 2: Public policies are coherent and effectively co-ordinated by the centre of government; decisions are prepared and communicated in a clear and transparent manner.

Most CoG functions have been formally assigned to the responsible institutions. The EI co-ordination bodies are also established. However, the functioning of these bodies has not been adequate in the past years, contributing to low levels of implementation of EI-related commitments. Co-ordination between the CoG bodies in the process of reviewing draft policies proposed by ministries is infrequent and primarily informal.

Indicator 2. Effectiveness of the centre of government (CoG), policy co-ordination and government decision-making		2024 indicator value	63/100
Sub-indicators		Points	
1.	Assignment of critical functions to CoG institutions by legislation	7.5/9	
2.	Internal co-ordination between CoG institutions	3/6	
3.	Preparation of government sessions and openness of decision making	23/28	
4.	Central quality check on procedural compliance	16.7/30	
5.	Co-ordination of government communications	3/6	
6.	Co-ordination of risk and crisis management	1/5	
7.	Assignment of EI-functions to CoG institutions by legislation	4/4	
8.	Availability of guidelines on EI processes	4/4	
9.	Effectiveness of EI co-ordination in practice	1/8	

The essential functions have been assigned to CoG institutions by legislation<sup>14</sup> and the relevant institutions have the necessary procedural backing to fulfil those functions. In particular:

- The General Secretariat of the Government (GSG) organises the government sessions, co-ordinates the preparation of the Government's strategic priorities and work programme, monitors the implementation of the Mid-term and Annual Work Programme, facilitates co-operation with the Parliament and carries out the overall government communication activities through its Service for Public Relations.
- The Secretariat for Legislation co-ordinates activities to ensure legal conformity of items considered for government approval.
- The MoF is responsible for verifying that policies are affordable, co-ordinating public sector resource planning and ensuring the quality of financial impact assessments as part of the overall RIA procedure.
- The Ministry of European Affairs is responsible for the overall co-ordination of EI-related activities.

The functions of risk and crisis management, as well as co-ordination and facilitation of smooth government transition after elections, are still to be formally assigned to CoG institutions. The procedures for government-wide co-ordination for these situations are not clearly established.

There is still insufficient practice for co-ordination among CoG units in responding to line ministry policy proposals submitted for Government decision. These co-ordination activities happen only for individual

<sup>14</sup> The key legal acts regulating the functioning of CoG institutions include the Law on State Administration, the Law on Budget and Fiscal Responsibility, the Rules of Procedure (RoP) of the Government, the Decree on the Government and the Decree on the Organisation and Operation of the Public Administration.



situations and mostly on an informal basis. CoG bodies (especially the Secretariat for Legislation and the MoF) often engage in several rounds of informal negotiations with line ministries before the draft proposal is submitted to them to prevent issuing negative opinions to the act proposed for government adoption.

The key gate-keeping mechanism is government committees scheduled before government sessions that may decide to return some acts to the proposing ministries. However, there is no evidence of the use of this mechanism. The role of CoG institutions in advising government committees in returning ill-prepared items is also not clear. Apart from the review of draft strategies, there is no review of the content draft policy proposals submitted to the Government within the GSG at the administrative level. The timeliness of the submission of draft laws for approval at government sessions is often not adequate. During 2023, 20 draft laws were submitted on the same day or one day before the government session<sup>15</sup>, while the RoP foresees that material for laws needs to be submitted two weeks before the planned session.

The fundamental capabilities necessary for the CoG bodies to fulfil their primary functions are established. However, most teams within the CoG institutions tasked with reviewing proposals from line ministries are small. As a result, their scrutiny tends to focus on the most obvious issues, leaving little opportunity to assist ministries in substantively improving the quality of their proposals. There is a lack of capacity for legal drafting and necessary policy analysis (including impact analyses) in ministries. As reported during interviews with government officials, some ministries (e.g. the Ministry of Transport) do not have any lawyers employed, which places an additional burden on the Secretariat for Legislation to review the draft acts proposed for adoption.

The Government established an important formal co-ordination mechanism in 2023: the Commission for Monitoring the Implementation of Mid-term Government Work Programme and Annual Government Work Programmes. The Commission started work during the preparation of the new Annual Work Programme for 2024.

Government decisions are communicated clearly and transparently, and all conclusions and materials from government sessions are regularly published.<sup>16</sup> Government session agendas are also published in advance. There is no regular interministerial co-ordination between communications officials of all ministries, but a recently established commission<sup>17</sup> of the General Secretariat of the Government is tasked to involve ministries in the development of the public communication guidelines.

While the Guidelines on the Preparation of the Montenegro Programme of Accession to the EU and related implementation reports are issued and available for use by the relevant institutions, monitoring reports on the progress in implementing the accession commitments are not compiled annually by the Ministry of European Affairs. The report on the implementation of the Montenegro Programme of Accession to the EU for 2023 was adopted,<sup>18</sup> but there is no similar report for 2022.

The structures for the co-ordination of EU affairs have been set up – the College for EU Accession Negotiations,<sup>19</sup> as a political-level body, and the Negotiating Team as an administrative-level co-ordination

<sup>15</sup> Most of the 20 last minute submissions were related to legislative changes linked to the annual budget law or previously confirmed drafts that were withdrawn from the parliamentary procedure and adopted again by the Government.

<sup>16</sup> Materials from all Government sessions are available at [https://www.gov.me/vijesti?sort=published\\_at&tags=239&page=1](https://www.gov.me/vijesti?sort=published_at&tags=239&page=1).

<sup>17</sup> The members of the Commission for Development and Implementation of Communication Guidelines are civil servants of the General Secretariat of the Government and the Cabinet of the Prime Minister.

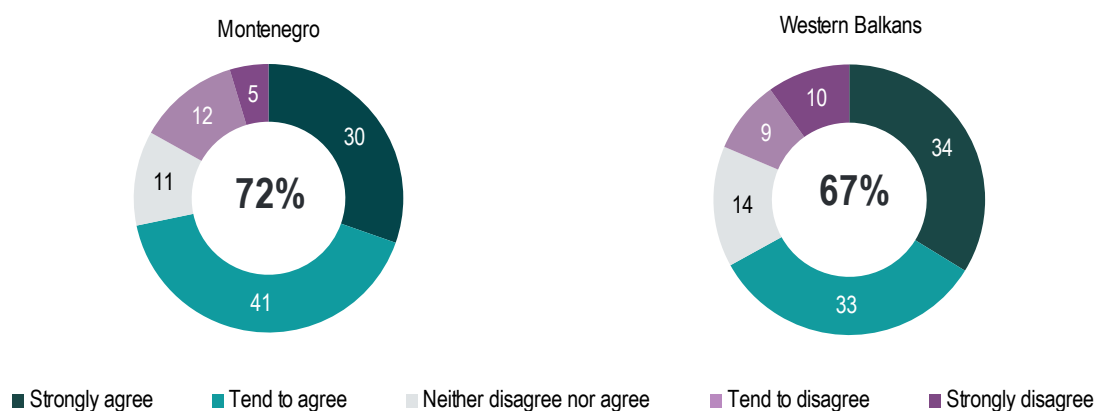
<sup>18</sup> The report on the implementation of the Montenegro Programme of Accession to the EU for 2023 is available at: <https://www.gov.me/dokumenta/53466612-faa1-409b-a68b-5d99644906fc>.

<sup>19</sup> Based on Article 4 of the Decision on Establishing a Structure for Negotiations on the Accession of Montenegro to the European Union (Official Gazette No. 112/23), the College for EU Accession Negotiations was set up. Its structure is described here at <https://www.eu.me/kolegijum-za-pregovore/>.

mechanism.<sup>20</sup> While the political-level body met once in 2023, there is no evidence of meetings of the administrative-level co-ordination body.

In general, the CoG is functional and has clear institutional accountability. Basic procedures and guidelines are in place for most regular processes. According to the SIGMA Survey of Public Servants on the functioning of public administration in the Western Balkans 2024, conducted in March-April 2024, the majority of public servants (72% of all who responded) agree that CoG institutions are adequately co-ordinating decision making at the government level (Figure 8).

**Figure 8. Public servants' perceived effectiveness of the centre of government in policy co-ordination, 2024**



Note: Percentage of valid responses to the question: "To what extent do you agree or disagree with the following statement?" "The CoG institution is adequately co-ordinating decision making at government level to ensure its quality and coherence." The percentage in the middle is the share of the respondents who answered "strongly agree" or "tend to agree"

Source: SIGMA Survey of Public Servants on public administration in the Western Balkans 2024

<sup>20</sup> Article 9 of the Decision on Establishing a Structure for Negotiations on the Accession of Montenegro to the European Union (Official Gazette No. 112/23) stipulates the establishment of the Negotiating Team. More information is available at <https://www.eu.me/pregovaracka-grupa/>.

### Principle 3: The government plans and monitors public policies in an effective and inclusive manner, in line with the government fiscal space.

While the status of the key central government planning documents is well regulated, the hierarchy of these documents remains unclear. The quality and transparency of policy planning documents are generally satisfactory, but there are still challenges with the alignment between central policy planning documents. The quality of the costing of planning documents is inadequate, with the Programme of Accession to the EU and some sectoral strategies lacking appropriate cost estimates for planned activities. The level of implementation of commitments taken with the Programme of Accession is very low.

Indicator 3. Quality of policy planning and reporting		2024 indicator value	62/100
Sub-indicators		Points	
1.	Adequacy of the legislative and institutional framework for policy planning and reporting	6.5/7	
2.	Availability of guidance to line ministries during the policy planning and reporting process	5.2/7	
3.	Alignment between central policy planning documents	2/10	
4.	Quality and transparency of policy planning documents	20/21	
5.	Financial sustainability of policy planning documents	0/7	
6.	Implementation of government commitments	4.6/15	
7.	Quality and transparency of policy reporting and monitoring	17/17	
8.	Quality and transparency of European integration (EI) policy planning	4/6	
9.	Implementation of European integration (EI) commitments	0/6	
10.	Quality and transparency of EI monitoring and reporting	2.5/4	

Overall, Montenegro has a clear system in place for strategic planning with the GSG, the MoF and the Ministry of European Affairs playing a co-ordinating role with line ministries in relation to their respective areas of competence. The status of the key central government planning documents is established in the regulatory framework, specifically in the Decree on the Manner and Procedure of Preparation of Co-ordination and Monitoring of the Implementation of Strategic Documents<sup>21</sup> and the Methodology of Developing Policies, Drafting and Monitoring the Implementation of Strategic Documents,<sup>22</sup> which clarify, among others, the distinction between strategies and programmes.

The Rules of Procedures (RoP) of the Government establish the obligation of developing the Annual Work Programme, based on the Government Mid-Term Work Programme (and Economic Policy Guidelines), which is based on the Exposé of the Prime Minister. However, the hierarchy of national strategic documents is not clearly defined in the regulatory framework. More specifically, the role and the position of the Development Directions of Montenegro, the Programme of Accession of Montenegro to the EU, the National Strategy for Sustainable Development and the Regional Development Strategy in the hierarchy is not entirely clear. In addition, there is no substantial difference between strategies and programmes in practice, although these are defined as different categories of sector planning documents.

The procedure for developing sector strategies is established in the above-mentioned Decree and Methodology. The central quality control of the development of sector strategies is ensured by the Secretariat General, which also issues conditional and even negative opinions.<sup>23</sup> The GSG also provides

<sup>21</sup> Official Gazette No. 54/18, <https://www.gov.me/dokumenta/23c216b2-3eb7-453c-b0a7-3cdae9e9742e>.

<sup>22</sup> The methodology is available at <https://www.gov.me/dokumenta/4d95d6d8-ace1-4338-96ce-0f4de29c36b0>.

<sup>23</sup> In 2023, 55% of the GSG opinions on the draft sector planning documents were conditional, and one opinion was negative.

additional guidance on preparing sector strategies.<sup>24</sup> The sample sector strategies reviewed for the assessment largely comply with the established requirements. They contain situation analysis, policy objectives with indicators and targets for their measurement, and describe the monitoring and reporting arrangements. However, an analysis of the sample of sectoral strategies shows inconsistent costing of planned activities as part of the sector strategies, although the budget preparation guidelines<sup>25</sup> helpfully require ministries to consider the estimates for sector strategy implementation.

Currently, there is no methodology regarding the estimation of action plan costs, and as a general rule, experts from budget departments in line ministries are not involved in the process of strategy development. Ministries lack clear mechanisms, roles and responsibilities for co-ordinating strategic planning within their ministry. Only a few ministries have purposefully institutionalised the key strategic planning functions, including budget departments and Instrument for Pre-accession Assistance (IPA) planning departments.

There is no central publicly accessible depository of government planning documents or reports.<sup>26</sup> Although the GSG routinely checks the quality of proposed strategic planning documents, it does not provide a prior opinion on the need to propose new strategic documents to be included in the next Government Mid-Term and Annual Programme. In practice, there are no specific restrictions concerning too many sector planning documents to be proposed.

Progress has been made with the establishment of the Commission for Monitoring the Implementation of the Government's Mid-Term Work Programme 2024-2027 and the Government's Annual Work Programme for the purpose of ensuring better co-ordination in the process of developing and implementing the Mid-Term Government Plan and Annual Work Plans. The Commission provides guidelines to ministries on preparing the Government Annual Work Plan (GAWP).

While the quality and transparency of policy planning documents are generally satisfactory, there are still challenges with the alignment between central policy planning documents. Despite various existing regulations and methodologies, the guidelines for aligning political, policy planning and budget documents are insufficient, and there is no integrated calendar for scheduling key policy planning and budgeting milestones and institutional roles. The level of alignment between the reviewed sector strategies<sup>27</sup> with the GAWP is low. Out of 15 draft laws planned for adoption in 2024, according to the 5 sample strategies, only 4 draft laws were included/planned in the GAWP for 2024.<sup>28</sup>

There is no proper co-ordination between the national strategic planning processes and IPA programming. The EU Delegation and the relevant national authorities often agree on priorities and projects to be funded without taking into account national strategic planning processes and priorities established in key national processes. With these practices, the IPA programming process may be undermining the established system of national strategic planning. The capacity of line ministries to contribute to the IPA programming process is low; there is a need to further strengthen the links between policy planning and IPA/EI departments in most line ministries.

The approach to government work planning is well designed, with a reasonable level of prioritisation and outcome-level information. However, the implementation rate of GAWP activities is low, with only 49% implementation of the planned activities. Of 359 items included in the report, 177 were fully implemented by the end of 2023. Similarly, 56% of planned legislative commitments were carried forward. Of 120 draft laws the Government planned to adopt in 2023, only 22 draft laws were adopted, and 68 were carried

<sup>24</sup> The guidance is available at <https://www.gov.me/dokumenta/e9e70d2e-5a26-4d67-83cb-11a3471d0d65>.

<sup>25</sup> For example, the Budget Circular for the Preparation of the Capital Budget for 2025 at <https://www.gov.me/clanak/budzetski-cirkular-za-pripremu-kapitalnog-budzeta-za-2025-godinu-2>.

<sup>26</sup> The central website, [www.javnepolitike.me](http://www.javnepolitike.me), which used to serve as a central depository of strategic documents, ceased to exist with the end of the EU-funded project.

<sup>27</sup> All sector strategies adopted during 2023 are publicly available at [https://www.gov.me/pretraga?sort=published\\_at&q=&dt=6&page=1](https://www.gov.me/pretraga?sort=published_at&q=&dt=6&page=1).

<sup>28</sup> The GAWP 2024 and the Government Mid-Term Work Programme for 2024-2027 are available at <https://www.gov.me/dokumenta/ee885398-748f-48fd-912a-29bbac334bfb>.

forward, while the rest were dropped from the agenda. These figures demonstrate that legislative planning takes place but was not realistic in the past year.

The quality of reporting on the implementation of government planning documents is satisfactory. The Annual Report on the Implementation of the Mid-Term Government Work Programme for 2023<sup>29</sup> contains not only the overview of the achievement of outputs but also the assessment of the achievement of outcomes, with a reference to the achievement of planned values of performance indicators. The annual GAWP implementation report has also been prepared and made publicly available.<sup>30</sup> Finally, the annual report on the implementation of the State Budget is prepared and made publicly available.<sup>31</sup>

While the Programme of Accession to the EU<sup>32</sup> is well aligned with the GAWP, is well structured according to negotiation chapters, and contains deadlines for all activities (legislative and implementation), the Plan does not include information on the cost of activities or sources of funding for commitments related to implementation.

The level of implementation of EI commitments is low, with 79% of planned activities carried forward. The overall reported implementation rate of EI-related legislative commitments was only 17% for 2023. This is significantly lower than the 38% implementation rate reported for 2021, reflecting weaknesses in both planning of activities and co-ordination and follow up during implementation. The report on the implementation of the Programme of Accession for 2023 does include information on the achievement of outputs,<sup>33</sup> but lacks any reflections or recommendations for improvement in the next implementation period.

<sup>29</sup> The Annual Report on Implementation of the Mid-Term Government Work Programme for 2023 is available at <https://wapi.gov.me/download-preview/92ffaf4a-c57d-4997-bfcc-fe738d9dc2d4?version=1.0>.

<sup>30</sup> The GAWP report is available at <https://www.gov.me/dokumenta/92ffaf4a-c57d-4997-bfcc-fe738d9dc2d4>.

<sup>31</sup> The report is available at <https://www.gov.me/clanak/izvjestaj-o-izvršenju-budžeta-crne-gore-za-2023-godine>.

<sup>32</sup> The EI plan is publicly available at <https://www.gov.me/dokumenta/29349d74-d332-498c-9927-3fac36e454a1>.

<sup>33</sup> The report is available at <https://wapi.gov.me/download-preview/53466612-faa1-409b-a68b-5d99644906fc?version=1.0>.

#### Principle 4: Public policies are developed based on evidence and analysis, following clear and consistent rules for law making; laws and regulations are easily accessible.

The government policy for promoting better regulation and evidence-based policymaking, including RIA, is well established and routinely implemented. Challenges remain in consistently implementing RIA standards for secondary legislation and laws initiated by the MPs. The low capacity of ministries for analysing, costing, and comparing different policy options and the use of RIA in the early stages of policy development remain among the root causes of the low quality of impact analysis. Public access to applicable legislation is technically ensured; however, the lack of consolidated versions of applicable regulation remains a weakness, which is also confirmed by relatively poor perception by business about ease of access to relevant regulation. In addition, the perception among businesses concerning the stability and clarity of government policymaking is low.

Indicator 4. Use of evidence and impact assessment during policy making, and quality and accessibility of laws		2024 indicator value	66/100
Sub-indicators		Points	
1.	Strength of the national policy framework for better regulation	3/3	
2.	Effectiveness of internal co-ordination and procedures for evidence-based policymaking in ministries	2.3/5	
3.	Comprehensiveness of the regulatory impact assessment (RIA) system, and consistency and quality of implementation	25.4/33	
4.	Effectiveness of regulatory oversight, central guidance and support for RIA	8.5/9	
5.	Predictability, coherence and consistency of legislation	8.1/17	
6.	Accessibility and availability of laws	7.3/17	
7.	Effectiveness of the regulatory framework and special procedures and tools for evidence-based EU law transposition	11/16	

Ministries are responsible for designing and implementing sector policies and submitting draft policy proposals to the Government. Central oversight and quality control are handled primarily by the Secretariat for Legislation to apply legal drafting rules and standards and ensure consistency with the Constitution and other laws. The MoF is responsible for the quality of RIA.

The Public Administration Reform (PAR) Strategy 2022-26<sup>34</sup> establishes a whole-of-government policy to promote better regulation and evidence-based policymaking. The Government's RoP stipulate the requirement to conduct RIA. The MoF has issued guidelines<sup>35</sup> for conducting RIA and organising regular quality checks of RIA in government decision-making processes.

The scope of RIA is extensive and covers draft laws, regulations and strategic documents. RIA for strategies was introduced to ensure better co-operation between the MoF and GSG in assessing the possible impact of draft strategies on business barriers and budgetary costs. Responsibility for quality checking stakeholder engagement, as an essential aspect of evidence-based policymaking, is with the Ministry of Public Administration (MPA), under the Decree on Organisation and Manner of Work of State Administration in Policymaking.<sup>36</sup>

Ministries consistently conduct RIA reports and budgetary/fiscal impact assessments. RIA reports were prepared for 96% of draft laws and 63% of regulations (by-laws) adopted by the Government in 2023.

<sup>34</sup> Chapter 5 of the PAR Strategy establishes clear objectives for improving evidence-based policymaking and RIA, <https://www.gov.me/dokumenta/381f1cf2-eb35-4a00-a5a5-aac1287aa041>.

<sup>35</sup> The guidelines and related manual are available at <https://www.gov.me/clanak/analiza-efekata-propisa-ria>.

<sup>36</sup> The MPA developed Instructions for Civil Servants for Using the eParticipation System (as the main online platform for stakeholder engagement in policymaking), which are available at <https://www.gov.me/dokumenta/321ed792-b7d5-42e4-b9d8-9286028fa4a0>.

However, in practice, the procedure of informal review of draft RIA reports by the MoF and the corresponding exchange between the MoF and line ministries can take several months due to the limited capacities of line ministries. Local government units have also been included in the RIA process, and the MoF supports them in developing capacities for conducting RIA. Conversely, RIA reports are missing for most MP-sponsored draft laws.

An analysis of RIA reports for five sample draft laws shows a generally adequate level of report quality. Challenges remain regarding the analysis of alternative options other than the status quo and the preferred option, as well as regarding the lack of monetised estimates of the main impacts (costs and benefits) of at least the preferred option. The samples cover the impacts on the budget and the economy (including administrative burdens) but do not consistently focus on other areas like social and environmental impacts. Therefore, the requirement to analyse a broad range of impacts is not fully applied in practice. The same shortcoming is apparent regarding the quality control of impact assessment, as the MoF checks primarily the quality of analysis on budget and business impacts. Still, no institution checks the quality of analysis on other impact areas.

The use of RIA in the early stages of the policy development process is still to be developed. While the Decree on the Selection of Representatives of Non-Governmental Organisations (NGOs) in the Working Bodies of State Administration Bodies and the Implementation of Public Hearings in the Preparation of Laws and Strategies<sup>37</sup> stipulates the obligation to carry out an initial consultations phase on the preparation of laws and strategies in the early phase of policymaking, line ministries have not adequately established this practice. Based on the last available Government report,<sup>38</sup> these initial consultations (call for evidence) were conducted for only 12 of 52 draft laws.

The MoF provides transparent annual monitoring reports about the implementation of RIA<sup>39</sup> and all RIA reports have been made publicly available on the central government website. Based on the SIGMA Survey of Public Servants on the functioning of public administration 2024, the perceived quality and availability of central MoF guidance and support for RIA is high. The survey findings show that 70% of civil servants find that guidance, advice and support are available for analysing the policy and its impacts when preparing draft legislation.

Legislative proposals aiming to align with EU law and domestic policy proposals are subject to the same requirements for impact analysis. However, regarding EU-related acts, concerns were expressed during interviews with Montenegrin officials about the lack of transparency during the consultation of the draft laws with the European Commission, as well as the non-transparent impact of external consultants on the proposed laws, regulations and other acts.

Instructions on Instruments for Harmonising the Regulations of Montenegro with the Legal *Acquis* of the European Union<sup>40</sup> establish the obligation to use tables of concordance (ToC) for the EU *acquis* alignment legislative initiatives. ToC is included in the supporting documentation for the reviewed sample of draft EU transposition-related laws. However, an analysis of RIA reports for two sample EU transposition-related draft laws shows that these reports do not make any references to analysis or evidence produced by the European Commission and/or EU Member States when developing and/or transposing the same directive in their respective administration.

Legal and Technical Rules for Drafting Regulations<sup>41</sup> is the official guidance document establishing technical standards, norms and rules for legal drafting and law making. As the quality-control body for legal drafting, the Secretariat for Legislation consistently reviews and provides opinions on all draft laws before

<sup>37</sup> Official Gazette No. 41/18.

<sup>38</sup> 2022 Report on the Implementation of the Decree on the Selection of Representatives of Non-Governmental Organisations in the Working Bodies of State Administration Bodies and the Implementation of Public Hearings, available at <https://www.gov.me/dokumenta/4fcf1033-42cc-47fc-85b9-07238dd8534d>.

<sup>39</sup> 2023 Qualitative Report on the Implementation of Regulatory Impact Assessment in Montenegro.

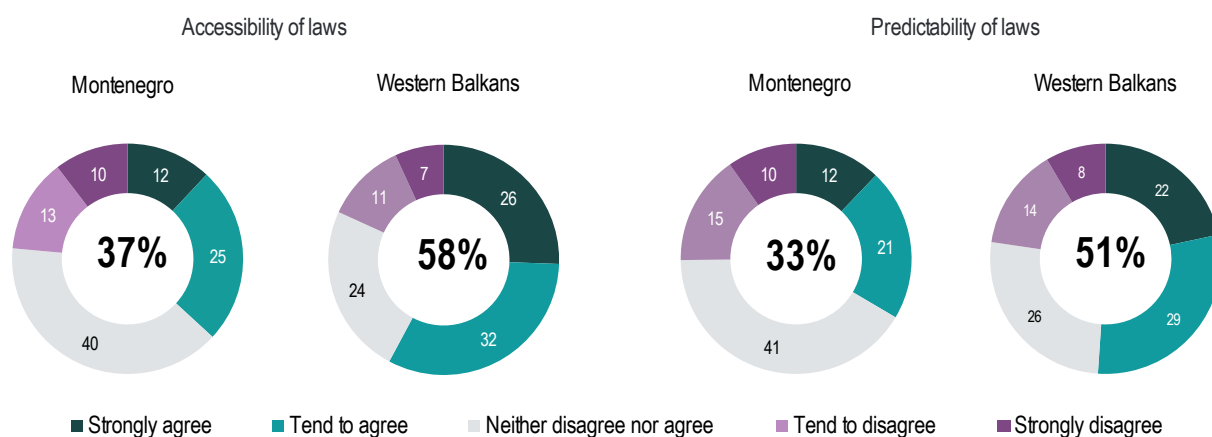
<sup>40</sup> Official Gazette No. 15/12.

<sup>41</sup> Official Gazette No. 02/10.

approval. Its opinion is provided for all draft laws adopted by the Government, including for all five analysed sample draft laws. The Secretariat for Legislation also supports line ministries by providing informal feedback and guidance before their formal opinion is provided. The SIGMA Survey of Public Servants shows a generally positive (70% of those providing an opinion) perception of the availability and accessibility of central guidance and support on legal drafting.<sup>42</sup>

Conversely, the perceived clarity and stability of government policymaking by businesses is low. Only 33% of Montenegrin business representatives agree with the statement that laws and regulations affecting their company are clearly written, not contradictory and do not change too frequently (Figure 9).

**Figure 9. Business perception of the accessibility and predictability of laws**



Note: Percentage of valid responses to the questions: "Laws and regulations affecting your company are clearly written, not contradictory and do not change too frequently" and "Laws and regulations affecting your firm are easy to identify and obtain". The percentage in the middle is the share of the respondents who answered "strongly agree" or "tend to agree".

Source: SIGMA Survey of Businesses on public administration in the Western Balkans 2024.

While all primary and secondary legislation are published in the Official Gazette, there is no obligation or existing practice to publish consolidated versions of legal texts free of charge. The lack of access to consolidated versions of primary and secondary legislation may be one of the reasons for the low level of perceived availability of laws and regulations affecting businesses. Based on the SIGMA Survey of Businesses 2024, only 37% of surveyed business representatives agree that information on laws and regulations affecting their firm is easy to obtain.

While line ministries are in charge of policy development according to their areas of responsibility, ministries' internal capacities are not used to the fullest during co-ordination and approval. For example, budget departments are not consulted when preparing draft laws, which can limit the quality of costing and the availability of funds to implement policies. Furthermore, there are often separate departments in ministries that deal with EI affairs and the co-ordination of the use of EU financial assistance. Due to the strict division of responsibilities between domestic and EI-related affairs, the capacities developed by these units through the management of EU affairs and funds are not applied in domestic policy development processes. The general perception of ministry officials regarding the quality of internal ministerial co-ordination, involvement and collaboration during policymaking is lower in Montenegro (63% of civil servants had a positive opinion on consultation within the ministry) than the average in the Western Balkans.<sup>43</sup>

<sup>42</sup> SIGMA Survey of Public Servants on the functioning of the public administration in the Western Balkans 2024.

<sup>43</sup> Ibid.



### Principle 5: All key external and internal stakeholders and the general public are actively consulted during policy development.

Public consultation is required for draft laws and strategies, while there is no legal obligation to conduct public consultations for draft secondary legislation adopted by the Government or individual ministers. The general standards and guidelines for public consultations are established, but there is no effective quality control of public consultations conducted by line ministries. This leads to low consistency in carrying out public consultations, even for draft laws. The minimum duration for interministerial consultation is not established, and outcomes of interministerial consultations are not consistently reported in terms of accepted/non-accepted comments.

Indicator 5. Functioning of consultations during policy development		2024 indicator value	37/100
Sub-indicators		Points	
1.	Effectiveness of procedures for public consultation and stakeholder engagement during policy development	10.3/35	
2.	Quality and effectiveness of public consultation practices in selected cases	12.5/25	
3.	Procedures for an effective interministerial consultation process	9/15	
4.	Quality and effectiveness of interministerial consultation practices in selected cases	5/25	

According to Article 52 of the Law on Public Administration, as well as Article 1 of the Decree on the Selection of Representatives of NGOs in Working Committees of Public Administration Bodies and Implementing Public Debates in Preparing Laws and Strategies,<sup>44</sup> public consultation is required for draft laws and strategies. Based on Article 35 of the RoP of the Government, laws and other acts, strategies, and plans should be consulted with the public. However, there is no legal obligation to conduct public consultations on draft secondary legislation that also specifies substantive details about the procedures that apply to businesses and citizens adopted by the Government.

The minimum duration for written public consultation is set in the Decree on the Selection of Representatives of NGOs in Working Committees of Public Administration Bodies and Implementing Public Debates in Preparing Laws and Strategies.<sup>45</sup> The Decree sets the minimum duration of at least 15 days for preliminary public consultations in the initial phase of drafting a law or strategy (to discuss reasons for adopting the new law or strategy and priority topics to be addressed). Article 15 of the Decree establishes the duration of 20-40 days for public consultation on a draft law or strategy – depending on the complexity of the subject regulated by the draft law or strategy. The Decree also mandates that line ministries make the RIA for draft laws available for public consultation, along with the explanatory note, programme of public consultation and other relevant documents. However, there is no obligation to make the envisaged draft by-laws available at the time of public consultation.

The Decree also establishes the obligation for the lead ministry to report on the outcome of a public consultation and publish it on the ministry website and e-government portal. For any draft law for which a public consultation has not been held, the line ministry must submit an explanation for not conducting a public consultation. Where a ministry has not conducted a public consultation on a draft law or planning document, the Government can determine that said act is only a draft and request the line ministry to conduct a public consultation on the draft, following the above-mentioned Government Decree.

<sup>44</sup> The Decree is available at <https://www.gov.me/dokumenta/1f353a31-1729-4db3-a378-e8c4610a5b04>.

<sup>45</sup> Articles 12 and 15.

The MPA is tasked with monitoring the quality of conducting public consultations to prepare laws and strategies.<sup>46</sup> However, this task is not fulfilled sufficiently in practice. The MPA does not review or provide an opinion on the compliance of consultation of individual draft laws and draft sector planning documents with established consultation requirements. As confirmed during interviews, the MPA does not plan to introduce the practice of consistent quality control through providing opinions. It only gathers annual reports on consultations conducted by line ministries and prepares a comprehensive annual report on public consultations. The GSG also does not block legislative proposals that have not gone through public consultation from being placed on the agenda of Government sessions.

Consistency in publishing draft laws and draft sector planning documents for public consultation is low. In 2023, public consultations were carried out for only 26% of all adopted draft laws and strategies. More specifically, 12 of 45 adopted laws (27%), and 7 of 28 adopted strategies were published for public consultation (25%).<sup>47</sup> Of the relatively few public consultations, the share of laws and strategies that underwent public consultation via the central portal for public consultations was 34%. Citizens and stakeholders do not use the central portal for public consultations to comment on draft law/policy proposals despite the MPA having developed guidelines for using the e-participation system for civil servants and the wider public.<sup>48</sup>

When public consultations are carried out, ministries tend to respect the minimum duration of 20 days of public consultation.<sup>49</sup> Also, the diversification of public consultation methods is satisfactory, with only one out of the ten analysed acts not having organised public consultation meetings. Ministries generally prepare and publish solid reports on the outcome of consultations, including also replies to unaccepted or partially accepted comments.

Citizen perception of government consultation practices is rather low, though similar to the average in the region (Figure 10). Only 35% of citizens agree that the government consults and involves stakeholders from the private sector and civil society when developing new legislation or other policy documents.

**Figure 10. Citizen perception of government consultation practices**



Note: The percentage of citizens that responded to the question: “To what extent do you agree or disagree with the following statements? The government consults and involves stakeholders from the private sector and civil society when developing new legislation or other policy documents.”  
Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024.

<sup>46</sup> Decree on Organisation and Manner of Work of State Administration, Official Gazette Nos. 98/23, 102/23, 113/23, Article 7.

<sup>47</sup> Data provided by the Government.

<sup>48</sup> The guidelines for citizens are available at <https://www.gov.me/dokumenta/baed738c-18b1-4404-b6d5-30f021c2063b>. The guidelines for civil servants are available at <https://www.gov.me/dokumenta/321ed792-b7d5-42e4-b9d8-9286028fa4a0>.

<sup>49</sup> Based on the SIGMA review of five draft laws and five draft sector policy planning documents.

The procedure for interministerial consultation of different proposals (e.g. draft laws and strategic planning documents) is established in the RoP of the Government,<sup>50</sup> which stipulate, among others, which ministries on which aspects are obliged to provide a written opinion, as well as the obligation to harmonise the draft laws, other regulations, and general acts with the comments from the Secretariat of Legislation and other relevant ministries/government bodies before submission to the government session. The list of institutions that need to be consulted includes the CoG institutions (e.g. the MoF and the Secretariat for Legislation) and ministries with horizontal functions (e.g. the Ministry for European Affairs and the MPA). Given that all ministries are not systematically included in the list of interministerial consultations, the risks for lack of coordination between sector ministries remain high.

The minimum duration for interministerial consultation is not set by any regulation. Only the maximum duration for expressing an opinion on a draft law or strategic planning document during interministerial consultation is set for 14 days. For other government decisions, the deadline is five days. The deadlines can be shortened based on the reasoned request of the proposer of the act.

As established during the SIGMA analysis of five sample draft laws and five sample strategies, all affected ministries are not adequately consulted across the government on draft legal/policy initiatives, and their comments are not systematically reported and/or responded to in the reports on interministerial consultations.

<sup>50</sup> Articles 40-42.

## Principle 6: Public policies are effectively implemented and evaluated, enhancing policy outcomes and reducing regulatory costs and burdens.

Line ministries' capacities to implement activities planned in sector strategies have improved, but achieving policy objectives remains low. The extent to which the ministries' work plans achieve targets cannot be established due to outdated plans and missing reports. Guidelines for Policy Evaluation have been developed but ministries' capacities to integrate evaluations into the policymaking cycle are underdeveloped. A clear problem in implementing laws lies in the fact that most envisaged mandatory by-laws are not adopted in time.

Indicator 6. Effectiveness of policy implementation, evaluation and simplification		2024 indicator value	30/100
Sub-indicators		Points	
1.	Effectiveness of policy implementation	9.7/30	
2.	Timeliness of adoption of mandatory by-laws	0/10 <sup>i</sup>	
3.	Monitoring and evaluation of policy implementation	5/20	
4.	Application of administrative simplification measures	8/20	
5.	Preconditions for conducting inspections in a proportional manner	2/5	
6.	Perceived availability of tools promoting regulatory compliance by businesses	1.7/5	
7.	Application of international regulatory co-operation	4/10	

Note: i = data not available or not provided.

Ministries tend to implement activities planned in sector strategies but mostly fail to meet the objectives set in those strategies. The average reported implementation rate of activities of sector planning documents is 66%, while the average fulfilment rate of objectives of sector planning documents is 26%.<sup>51</sup> This result is for various reasons, including limited analysis to plan activities that impact objectives, implementation of the easiest activities in the overall plan, and the lack of accountability and attention to set realistic objectives and targets.

Implementation of laws is significantly disturbed by the lack of discipline in preparing and adopting the by-laws envisaged in primary legislation. Based on the SIGMA review, most mandatory by-laws are not adopted in time,<sup>52</sup> creating a vacuum of legal clarity and certainty for those needing to follow legislative requirements. This is also a potential source for unnecessary legal disputes between economic operators as well as administrative court cases with the State.

The Guidelines on Policy Evaluation, with instructions and good practices on how to initiate, plan and conduct policy evaluations or *ex post* impact assessments, have been prepared and published by the GSG.<sup>53</sup> In line with the Methodology of Developing Policies, Drafting, and Monitoring the Implementation

<sup>51</sup> The analysis was based on the following five implementation reports: Annual Report on Implementation of the National Employment Strategy Action Plan for 2022; Report on the Implementation of the Women Entrepreneurship Strategy Action Plan for 2022; Report on the Implementation of the Digital Transformation Strategy Action Plan for 2022; Report on the Implementation of the Integrated Border Management Action Plan for 2022; Report on the Implementation of the Tourism Development Strategy Action Plan for 2022.

<sup>52</sup> The exact data on the timeliness of the adoption of mandatory by-laws, an important indicator of the effectiveness of policy implementation, were not made available by the Government.

<sup>53</sup> The Guideline on Policy Evaluation is available at <https://www.gov.me/dokumenta/54336d53-335b-4811-91aa-7298bcacc991>.

of Strategic Documents,<sup>54</sup> the GSG is responsible for providing guidance and support during policy evaluation.

While the basic evaluation criteria are included in the Guidelines for Policy Evaluation, there are no precise rules, benchmarks or criteria set to determine which policies must undergo evaluation or which may not. Rather, the Methodology of Developing Policies, Drafting, and Monitoring the Implementation of Strategic Documents stipulates general rules on evaluation as an integral part of the final report on implementation. Based on the methodology, the final report of the strategy must include an overview of the most important findings of the evaluation and provide key questions that need to be answered. There is some practice in preparing policy evaluation reports, evidenced by seven examples shared with SIGMA. However, not all evaluation reports are publicly accessible.

Ministry work plans and reports on their implementation are not regularly produced. It was not possible to establish whether they contained specific objectives and measurable targets and to what extent these were implemented.

The responsibility for steering administrative simplification is not clearly assigned to any ministry, although the MPA prepares reports on proceedings in administrative matters.<sup>55</sup> RIA methodology requires the analysis of administrative burden, as confirmed in the RIA manual.<sup>56</sup> The MoF Instruction on Preparing a RIA report also contains requirements for analysis of administrative burden.<sup>57</sup> In practice, analysis on the creation of administrative burden is routinely done during the preparation of legislation, although with varying quality, as also noted by the MoF in their recent annual report. There is, however, no dedicated focus on reviewing the stock of legislation in terms of possible avenues of administrative burden reduction.

Individual cases of simplification exist. One recent example deals with the adoption of the amendments to the Law on Value Added Tax, which encourages the use of electronic invoices, namely, by regulating that the taxpayer is not obliged to keep the invoice after leaving the store or other business premises and show it at the request of an authorised person of the tax authority when it comes to the invoice issued in electronic form.<sup>58</sup> The second example deals with the application for student loans and scholarships, digital signing of contracts between students and the University of Montenegro with a new identity card, enrolment at faculties, and online application for student and student dormitories.

Preconditions for conducting inspections in a proportional manner are not yet fully established. The Law on Inspection Supervision<sup>59</sup> does not explicitly stipulate how inspection authorities co-ordinate their activities to avoid duplication, although, with the Administration for Inspection Affairs, many sectoral inspection services are handled by the same organisation. Also, there is no information on a statutory limit of number of inspections, and there are no publicly available documents explaining if there is a limit on the number of inspections.

The Administration for Inspection Affairs has prepared the Risk Analysis Methodology in the Performance of Inspection Supervision, in accordance with the provisions of the Law on Inspection Supervision, with the aim of proactive action in the prevention and early detection of corrupt actions and other acts showing signs of corruption. However, since the latest publicly available Work Programme of the Administration for

<sup>54</sup> The Methodology is available at <https://www.gov.me/dokumenta/4d95d6d8-ace1-4338-96ce-0f4de29c36b0>.

<sup>55</sup> The last available report is for 2022, but, as explained by the MPA officials, it was deficient due to the consequences of cyber attacks. The report can be accessed at <https://www.gov.me/dokumenta/9065a87a-4b06-4028-96eb-5e70136b9a20>.

<sup>56</sup> More details are available at <https://www.gov.me/dokumenta/20d3e265-dbc4-4f09-b11d-06ef6fb36f0a>.

<sup>57</sup> The Instruction is available at <https://www.gov.me/dokumenta/f79b7806-6e4c-4aba-b876-1c6121b8327c>.

<sup>58</sup> The changes are introduced in the Law on Value Added Tax, Official Gazette No. 03/23, Article 12.

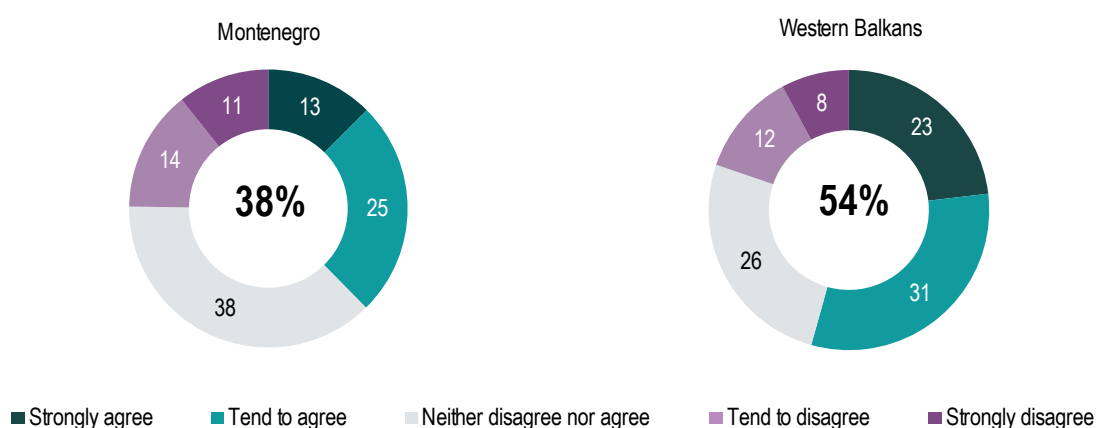
<sup>59</sup> Official Gazette Nos. 39/03, 76/09, 57/11, 18/14, 11/15, 52/16.

Inspection Affairs is for 2021,<sup>60</sup> it is not possible to assess the evidence on applying a risk-based approach to planning the inspections.

A single information point is available to learn about inspection principles and procedures. The Administration for Inspection Affairs prepared checklists<sup>61</sup> that help businesses to harmonise their work with regulations, which helps them to prepare for eventual inspection procedures. However, not all inspection services are part of the Administration for Inspection Affairs, as there are several inspection services operating under the relevant sectoral ministries (with a plan to decentralise the system fully in 2024).

Business perception of the availability of tools promoting regulatory compliance is low. Only 38% of businesses agree that information and guidance on the application of the regulatory requirements affecting their company are easy to obtain from authorities. This is the lowest perception by business among the Western Balkan administrations (Figure 11).

**Figure 11. Business perception of the availability of tools promoting regulatory compliance, 2024**



Note: Percentage of valid responses to the question: "To what extent do you agree or disagree with the following statement?" "Guidance on the application of regulatory requirements affecting my company are easy to obtain from the authorities." The percentage in the middle is the share of the respondents who answered "strongly agree" or "tend to agree".

Source: SIGMA Survey of Businesses on public administration in the Western Balkans 2024.

Finally, the use of international experiences and comparative data from other countries during the preparation of policies and laws is increasing but is not yet done systematically. Three out of five analysed RIA reports contained references to the use of international, EU, or other country data or experiences when designing new policies/laws. The Government also provided four examples of engagement in international regulatory co-operation during 2023.

<sup>60</sup> The 2021 Work Programme is available at <https://www.gov.me/dokumenta/313901f8-c428-4622-8f37-4ff55fd07aad>.

<sup>61</sup> For more details, see <https://www.gov.me/ui/kontrolne-liste>.

## Principle 7: The parliament effectively scrutinises the government policymaking and ensures overall policy and legislative coherence.

The Parliament possesses all the essential foundations for fulfilling its constitutional role in good-quality law making. The regulatory framework for parliamentary scrutiny of policymaking is well established. However, challenges remain in ensuring the effectiveness of this scrutiny. While the Parliament operates transparently compared to others in the region, citizen perception of openness and transparency in parliamentary scrutiny of law making is low. The use of urgent and shortened procedures for adopting laws in the Parliament is high. Moreover, MP-sponsored laws do not undergo public consultations and lack substantive impact assessments. Additionally, there is inconsistent provision of government opinions on draft laws initiated by MPs.

Indicator 7. Effectiveness of parliamentary scrutiny of policymaking		2024 indicator value	57/100
Sub-indicators		Points	
1.	Regulatory framework for parliamentary scrutiny of policymaking	10/10	
2.	Government participation in parliamentary discussions	8/8	
3.	Openness and transparency of the legislative work of the parliament	8.7/14	
4.	Planning and co-ordination of legislative activities between government and parliament	4/12	
5.	Timeliness of parliamentary processing of draft laws submitted by the government	10/10 <sup>i</sup>	
6.	Completeness of supporting documentation for draft laws submitted to the parliament	4/10	
7.	Use of extraordinary or shortened proceedings for the adoption of government-sponsored draft laws	0/12	
8.	Quality of law making by members of parliament (MPs)	4/16	
9.	Parliamentary review and evaluation of the implementation of policies	8/8	

The regulatory framework for parliamentary scrutiny of policymaking is established in the RoP of the Parliament,<sup>62</sup> which enables the Parliament and its committees to debate, scrutinise, and amend Government-initiated laws and carry out its oversight function over government policymaking.

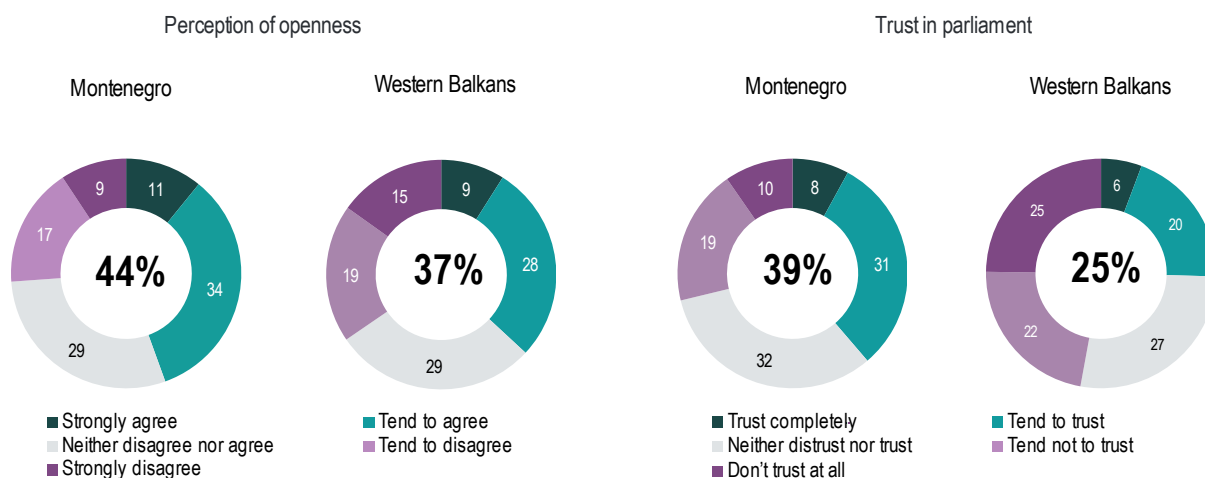
The Parliament and the Government use the same standards and rules for legal drafting when preparing draft laws, namely the Legal and Technical Rules for Legal Drafting developed by the Secretariat for Legislation. The general requirements regarding the content of a draft and the required package of materials submitted to Parliament are stipulated in the RoP of the Government and RoP of the Parliament.

The Parliament provides many key elements for openness, although some challenges remain in ensuring the transparency of parliamentary legislative work. Namely, the Parliament website does not provide clear information about the status of each law registered for parliamentary scrutiny, specifically regarding the stage of parliamentary scrutiny (e.g. whether it is at the first/second reading or committee stage). Citizen perception of the openness of the legislative process is above regional average. According to SIGMA Survey of Citizens on public administration 2024 results, 44% of citizens agree that the legislative process – that is, how laws are made – in the Parliament is open and transparent to the public. Compared with the average of the Western Balkan administrations, the Parliament of Montenegro is perceived as more open, and the level of trust among citizens is higher (Figure 12).<sup>63</sup>

<sup>62</sup> The RoP of the Assembly is available at <https://www.skupstina.me/me/poslovnik-o-radu>.

<sup>63</sup> Trust is an important indicator of how people view and evaluate their government institutions. The OECD has developed a comprehensive framework to understand what drives trust in public institutions and applies this framework in the biennial OECD Trust Survey (OECD, 2021), which up to now has been implemented in OECD member countries and Brazil. The OECD Trust Survey examines what affects trust by measuring people's perceptions of government

**Figure 12. Citizen perception of trust and openness in law making in Parliament**



Note: The percentage of citizens that responded to the question: “How much trust do you have in the following institutions? Parliament”; and the percentage of citizens that responded to the question: “To what extent do you agree or disagree with the following statement? The government consults and involves stakeholders from the private sector and civil society when developing new legislation or other policy documents.”

Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024.

The Government proposes most draft laws, although the number of those submitted by MPs has increased in recent years. Regulations ensure that Parliament systematically consults with the Government on all MP-initiated draft laws. Namely, Article 26 of the Decree on the Government stipulates the obligation of the Government to prepare opinions on draft laws and other regulations or acts prepared by other proposers (Parliament). In addition, Article 135 of the RoP of the Parliament stipulates that the President of the Parliament needs to forward MP-sponsored laws to the Government to provide its opinion within the period that may not exceed 15 days from the day of receipt of the proposal for a law. In practice, there are many instances where the Parliament chooses not to wait for the Government’s opinion or that the Government fails to provide a substantive opinion on the proposals. The consistency of provision of government opinions on draft laws initiated by MPs is low. Of 18 laws adopted by the Parliament in 2023 initiated by MPs, all 19 draft laws were submitted to the Government for opinion, but only 5 of these laws received such opinion.

There are no requirements for MPs to consult with key affected stakeholders. Based on interview findings, MPs do not organise a public debate on draft laws they initiate and prepare. The analysis of the quality of initial analysis and consultation carried out during the preparation of MP-initiated laws in practice indicates that only a basic explanatory note is attached to MP-sponsored laws, without any other supporting materials or impact assessments.

The overall quality of planning and co-ordination of legislative activities between the Government and the Parliament is still weak. Officials on both sides do not meet regularly to discuss legislative priorities or agendas; they communicate infrequently and informally. The alignment between planned and actually submitted Government-initiated draft laws approved by the Parliament is low. Of 32 Government-initiated

competence (reliability and responsiveness) and values (integrity, fairness, and openness), then connecting these factors to trust levels across various institutions. More information can be found here: [https://www.oecd.org/en/publications/oecd-survey-on-drivers-of-trust-in-public-institutions-2024-results\\_9a20554b-en.html](https://www.oecd.org/en/publications/oecd-survey-on-drivers-of-trust-in-public-institutions-2024-results_9a20554b-en.html)

Recognising trust as a valuable indicator of public governance performance, the SIGMA Survey of Citizens on public administration—while distinct from the OECD Trust Survey — includes specific questions about trust in public institutions to complement existing indicators from the Assessment Methodology.

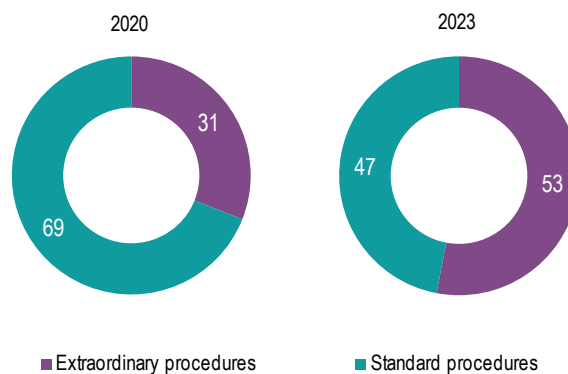


laws submitted to Parliament in 2023, 11 were not included in the 2023 GAWP. The overall alignment rate is 34%.

The completeness of supporting documentation for draft laws submitted to the Parliament has improved in recent years but is still not fully adequate. For 5 out of 65 draft laws adopted by the Government, RIA reports were not sent to the Parliament, although the RoP of the Government require this.

The use of urgent or other non-standard procedures for adopting laws in the Parliament is high. Based on information from the Government, for 17 out of 32 laws (53%) submitted by the Government to the Parliament and adopted in 2023, a non-standard (urgent/shortened) procedure was used for adoption. This is high compared to the high share from 2021 when 42% of laws were adopted via a non-standard procedure in parliamentary proceedings (Figure 13). Based on information from the Parliament activity report for 2023, an urgent procedure was applied for 32 laws adopted during that period.<sup>64</sup> While the RoP of the Parliament<sup>65</sup> establishes criteria for using non-standard, urgent procedures for adopting laws, the Parliament often does not make a deliberate and formal decision to apply the non-standard procedure but does so in practice.

**Figure 13. Share of Government-sponsored draft laws adopted in the Parliament by extraordinary procedure, 2020 and 2023**



Source: Data provided by the Government and annual activity reports of the Parliament.

The frequency of parliamentary review and evaluation of the implementation of policies is satisfactory. In 2023, parliamentary committees organised 7 control and 18 consultative hearings. Committees also reviewed a number of different reports submitted by state institutions and organisations. The Parliament prepares and publishes reports on the implementation of major laws and policies.<sup>66</sup>

<sup>64</sup> The figure includes 19 laws initiated by the MPs. The annual parliament activity report is available at <https://api.skupstina.me/media/files/1727950112-izvjestaj-o-rad-u-skupstine-crne-gore-u-2023-godini.pdf>.

<sup>65</sup> Articles 151-153.

<sup>66</sup> For examples of the recent evaluation reports from the consultative hearings organised by the responsible parliamentary committee in 2023, see the Report from the Committee Hearing on the Implementation of the Law on the Conversion of Loans in Swiss Francs (CHF) in EUR, available at <https://zakoni.skupstina.me/zakoni/web/app.php/sjednicaradnogtijela/3390> or the report on the Implementation of the Strategy for the Protection of Persons with Disabilities from Discrimination at <https://zakoni.skupstina.me/zakoni/web/dokumenta/sjednice-radnih-tijela/3356/9129-00-63-8-23-.pdf>.



## Public service and human resource management

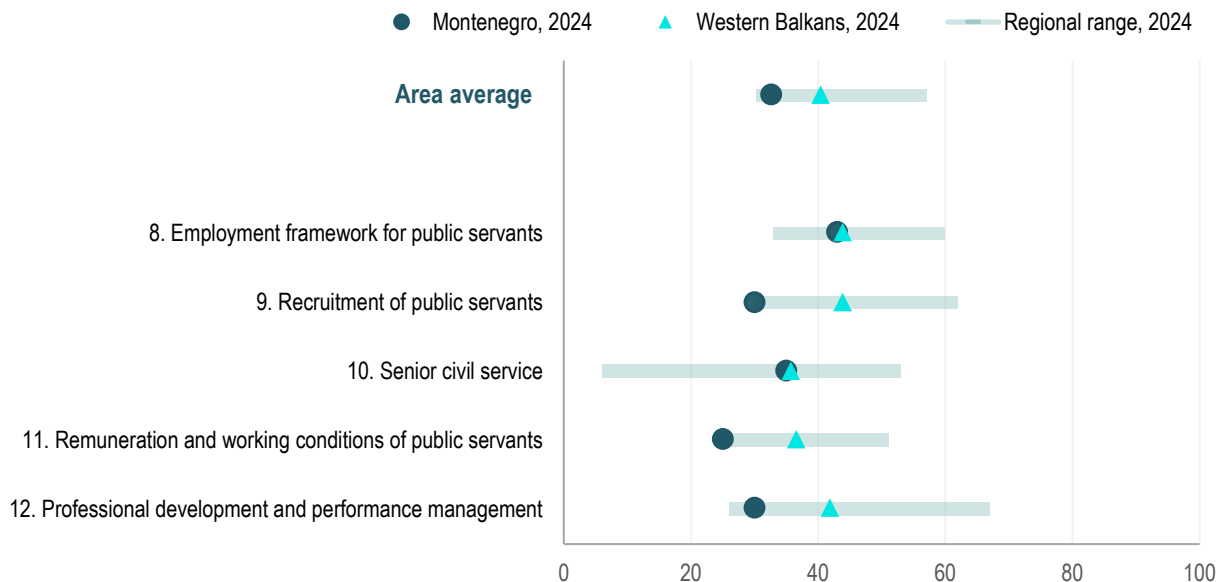
Public servants act with **professionalism, integrity** and **neutrality**. They are recruited and promoted based on merit and equal opportunities and have the right competencies to deliver their tasks effectively.

### The Principles of Public Administration

- Principle 8** The employment framework balances stability and flexibility, ensures accountability of public servants and protects them against undue influence and wrongful dismissal.
- Principle 9** Public administration attracts and recruits competent people based on merit and equal opportunities.
- Principle 10** Effective leadership is fostered through competence, stability, professional autonomy and responsiveness of accountable top managers.
- Principle 11** Public servants are motivated, fairly and competitively paid and have good working conditions.
- Principle 12** Professional development, talent and performance management enhance the skills, efficiency and effectiveness of public servants and promote civil service values.

## Summary and recommendations

Figure 14. The overall indicator values in the public service and human resource management area



Notes: The area average is a simple average of the Principles within the area. The Western Balkan average is calculated as a simple average of all administrations.

The **high political instability in 2021-2023 slowed the implementation of public service reform** and adversely affected the regular functioning of human resource management (HRM). The clearest evidence is the **extremely high turnover in top public management (TPM) positions** in that period, which reached 74% in 2021 after the parliamentary elections of August 2020 and was still 61% in 2023. Numerous processes or reorganisations stemming from government changes negatively impacted the preparation of human resources (HR) plans and reduced the HR Administration's capacity for more strategic tasks.

The main positive development from the 2021 assessment was the **adoption of the Public Administration Reform (PAR) Strategy 2022-2026 and its Action Plan 2022-2024, including the strategic framework for the public service** in Pillar III. However, **shortcomings identified in 2021 in the public service legal framework remain unchanged**. The Law on Civil Servants and State Employees (CSL) does not fully ensure respect for merit in recruitment, and selection committees are vulnerable to political influence. Legal provisions do not provide for objective criteria or procedures leading to dismissal or demotion during reorganisation. Merit-based access to TPM is challenged by acting appointments (one-third of the total TPM positions), including appointing persons from outside the civil service without transparent procedures. The six-month acting mandates established in legislation are often renewed for much longer, resulting in *de facto* discretionary appointments. The CSL has a wide institutional scope. Nevertheless, **some public bodies with typical executive functions, such as regulatory agencies, continue to operate under special legislation that is not aligned with public service principles**.

Political oversight of public service policy is conducted through the Ministry of Public Administration (MPA) and the Ministry of Finance (MoF), with the latter focusing on wage policy. However, **limited capacities and an underdeveloped human resource management information system (HRMIS)** hinders effective management and monitoring. Workforce planning relies solely on annual recruitment plans. While open competitions are widely advertised, they provide limited job details and omit crucial information, such as salaries or attractive conditions. The **lack of job profiles hampers the development of good quality**

**selection** methods. Attractiveness and effectiveness of recruitment are not consistently monitored, and recruitment appeals constitute a significant portion of the Appeal Commission's workload.

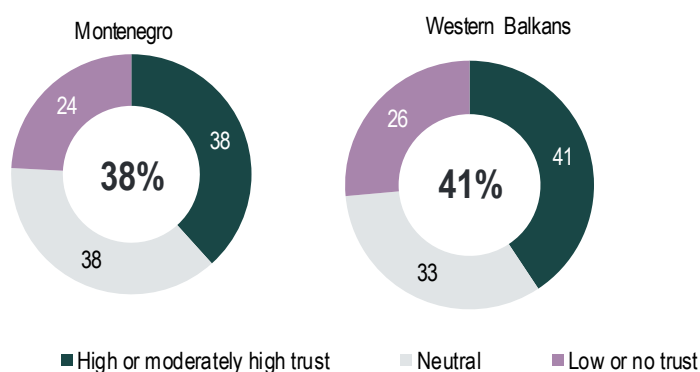
Public servants show high dissatisfaction with the remuneration policy, as seen in responses to the SIGMA survey questions and appeals to the Appeal Commission. The legislation establishes the civil service salary structure based on job classification. Nevertheless, the provisions on allocating base salaries and fixed salary supplements allow for **unjustified differences among similar positions across public bodies**. The **shortcomings in job descriptions, evaluation and classification** further contribute to this situation. There is no systematic monitoring or analysis of the implementation of salaries, their internal fairness or competitiveness with the private sector. Despite these deficiencies in the salary system, overall satisfaction with work in public service is high.

The HR Administration strives to improve professional development through centralised training and supervision of performance appraisal. However, the performance evaluation design lacks the basic ingredients to make it effective: previous agreement on results to be achieved, discussion of assessment results, and empowered managers to manage their staff. **Individual evaluation results lean disproportionately on the side of excellent rates, which makes the system useless**. Consequently, performance appraisal is becoming irrelevant, as evidenced by the **steady drop in the implementation rate to 39% in 2023**. There are no data on internal mobility except for internal announcements, which remain highly ineffective, with only 24% of vacancies filled last year.

**42% of women are in TPM positions, which is slightly above the OECD average**. Other features of a diverse workforce, like the participation of people with disabilities or underrepresented communities, are not encouraged. Nevertheless, although support for candidates with disabilities in recruitment is not regulated, the HR Administration provides adaptation ad hoc when required and organises regular training on gender equality and other gender-related topics.

The share of citizens who declared that they trust civil servants in Montenegro is 38%, slightly lower than the regional average (41%). Moreover, trust in civil servants in Montenegro (38%) is lower than trust in local governments (45%) and trust in national government (42%), which is not common in a comparative perspective.

**Figure 15. Citizen trust in civil servants**



Notes: Percentage of aggregated responses to survey question:

"How much trust do you have in the civil servants? Using a 5-point scale where 1 means you don't trust it at all and 5 means you completely trust it". 1-2 = Low or no trust, 3 = Neutral, 4-5 = High or moderately high trust.

The percentage in the middle is the share of respondents who answered "high or moderately high trust".

Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024

The existing legal framework, institutional set-up and related strategies and guidance in public service and human resource management are only moderately in line with the Principles of Public Administration. Additionally, there are considerable weaknesses and gaps in implementation practice and results for this area (Figure 16).

**Figure 16. State of play in public service and human resource management by type of criterion**



Notes: The results are split. The first combines points from legislation, policy and guidance, and institutional set-up. The second aggregates points from implementation practice and results. The percentage in the centre represents the ratio of points in relation to the maximum.

## Recommendations

1. The Government should propose legislative amendments to ensure that staff in regulatory agencies are subject to public service principles.
2. The Government should adopt objective criteria and processes to limit the potential for reorganisations to result in unfair dismissals or demotions of public servants.
3. The Government should promote stability in TPM positions, propose legislative amendments to limit acting appointments to candidates from the ranks of public servants, and ensure the respect of time limits.
4. The Government should propose legislative amendments to prohibit the presence of political appointees in selection panels and ensure the appointment of first-ranked candidates in open competitions to fill non-senior positions.
5. The HR Administration should propose measures to improve staff selection methods beyond knowledge-based tests and interviews.
6. The HR Administration should gradually expand the HRMIS' functionalities; ensure interoperability with the payroll system and other relevant databases; and implement regular HR analysis and monitoring using the system's data.
7. The HR Administration should ensure improved regulations and harmonised practice of job descriptions – including job content and requirements for good performance, as well as methods and procedures for job evaluation and classification, as the essential basis for professional recruitment and development and fair salary allocation.
8. The HR Administration should ensure that HR plans are prepared in accordance with the budget and allow the central government and individual state bodies to steer HR strategically. These plans should go beyond mere staffing functionality and identify and tackle crucial skill gaps in the short and medium term.
9. The MoF, in co-ordination with the MPA and the HR Administration, should substantially improve data availability on public service salaries; analyse shortcomings in the current salary structure, including the transparency of the system, internal fairness, the gender pay gap, and the competitiveness of salaries in the public service; and propose legislative reforms based on this information.
10. The HR Administration should propose improvements in the design of the individual performance appraisal system and improve its link with professional development.

## Analysis

### Principle 8: The employment framework balances stability and flexibility, ensures accountability of public servants and protects them against undue influence and wrongful dismissal.

The legal and policy framework for the public service has a wide horizontal scope, although some regulatory agencies are exempt. Political steering and central co-ordination functions are in place, but insufficient development of the HRMIS hinders the HR function's greater effectiveness. The CSL establishes civil servants' duties, grounds for disciplinary liability and fair disciplinary processes. However, the criteria and procedures to decide on individual dismissals or demotions due to reorganisation are insufficient.

Indicator 8. Adequacy of the policy, legal framework and institutional set-up for a professional and accountable public service		2024 indicator value	43/100
Sub-indicators		Points	
1.	Existence of political responsibility for the public service	5/5	
2.	Clarity and implementation of public service policy	4/10	
3.	Clarity and adequacy of the material, horizontal and vertical scopes of public service legislation	6.6/10	
4.	Protection of neutrality and professionalism of public servants against undue influence	4.6/10	
5.	Quality of the disciplinary system	4/10 <sup>i</sup>	
6.	Objectivity and fairness of dismissal and demotion of public servants	3/14	
7.	Grounds and limits for temporary employment in the public service	4/5	
8.	Existence of central and capable co-ordination bodies	8/12	
9.	Capacities for professional HRM in public administration bodies	2/12	
10.	Existence of an effective HRM information system	1.4/12	

Note: i = data not available or not provided.

The CSL applies to most state public authorities. The civil service encompasses the ministries and other administrative bodies reporting to them, the staff working in the administration of the president, the parliament, the government, the courts, the constitutional court, and the state prosecutor's office.<sup>67</sup> Special groups of public servants working in public funds and other legal entities<sup>68</sup> also belong to the civil service. The CSL also applies to staff in regulatory, independent bodies, and other authorities if prescribed by a separate law. However, special legislation or labour law regulates employment relations in some regulatory agencies and the Foreign Service.<sup>69</sup> In these cases, professional, merit-based HRM is not ensured.<sup>70</sup>

<sup>67</sup> CSL, Official Gazette No. 37/2022 (in force from 7 April 2022), Article 3.

<sup>68</sup> The Pension and Disability Insurance Fund, the Health Insurance Fund, the Employment Office, the Labour Fund, and the Agency for Peaceful Settlement of Labour Disputes.

<sup>69</sup> The Competition Authority, Law on Protection of Competition, Official Gazette Nos. 44/12, 13/18, 145/21; the Energy and Water Regulatory Agency, Law on Energy, Official Gazette No. 82/2020; the Electronic Communications and Postal Services Agency, Law on Electronic Communications, Official Gazette No. 49/2019; the Electronic Media Agency, Law on Electronic Media, Official Gazette No. 82/2020; Law on Foreign Affairs, Official Gazette No. 70/2017, Article 72.

<sup>70</sup> These separate laws do not prescribe competitions as the only avenue to access public service jobs, the appointment of the first-ranked candidate, or the right to appeal to the Appeals Board if a candidate disagrees.

While the horizontal scope of the civil service presents some loopholes, the difference between the political and administrative spheres is clearly established. The regulatory framework distinguishes between political appointees,<sup>71</sup> political advisors,<sup>72</sup> top civil servants one or two levels below the minister,<sup>73</sup> civil servants and state employees. Selection processes, terms of office and termination of employment procedures are treated separately from the regulation of non-senior civil service positions.

The responsibility for public service policy is shared. The MPA is the political authority responsible for public service and related legislation.<sup>74</sup> Its responsibility encompasses all central government administration bodies.<sup>75</sup> The MoF formulates the remuneration policy.<sup>76</sup> The HR Administration, established as an independent administrative authority supervised by MPA, oversees the implementation of state authorities' HRM procedures.<sup>77</sup>

The MPA supervises the PAR Strategy 2022-2026,<sup>78</sup> which includes the public service under the "Professional Public Administration" section. The PAR Strategy covers all central and local government civil servants and state employees. It features a situation analysis with problem quantification, strategic goals and performance indicators, and baseline measures and targets for the operational objectives. The responsible institutions and allocated funds for the strategic and operational objectives are found in the Action Plan 2022-2024.

The HR Administration endeavours to promote horizontal co-ordination and monitor the implementation of HRM procedures across the civil service system, but it is only partially successful. The HR Administration fulfils the legal mandate to organise and deploy centralised training, organises regular meetings with HR managers from central government institutions, and ensures that the relevant legislation and guidelines are available on an easily searchable website.<sup>79</sup> However, the HR Administration's co-ordination and monitoring functions experience several issues. First, guidance on HRM procedures is limited or not updated. Guidelines on performance appraisal are not provided, and the guidance on job descriptions has not been updated from 2019, despite amendments to implementing legislation adopted in 2023.<sup>80</sup> Second, notwithstanding the legal obligation of state administration bodies to co-operate to perform their tasks,<sup>81</sup>

<sup>71</sup> Regulation on the General Secretariat of the Government of Montenegro, Official Gazette No. 109/2023; Decree on the Government of Montenegro, Official Gazette No. 121/2023; Decree on the Cabinet of the President of the Government of Montenegro, Official Gazette No. 109/2023.

<sup>72</sup> CSL, Article 62.

<sup>73</sup> According to the CSL, those positions are secretaries, directors general, assistants to the head of the government service, deputy directors of the legal entities from Article 3 (para 2) (Article 24), and heads of administrative bodies (Articles 18, 21, 41). These positions are also regulated in the Law on the State Administration, Official Gazette Nos. 078/18, 070/21, 052/22 (Articles 32-34), clearly differentiated from political positions (Articles 29-30).

<sup>74</sup> Decree on Organisation and Manner of Work of the State Administration, Official Gazette No. 113/2023, Article 7.

<sup>75</sup> Article 3 of CSL, Official Gazette No. 008/2021, applies to all state administration bodies and to regulatory and independent bodies when prescribed in a separate law.

<sup>76</sup> The MoF prepares the regulation and supervises the implementation of the Law on the Salary of Employees in the Public Sector (LSEPS), Official Gazette No. 113/2023, and manages the register of public employees' salaries.

<sup>77</sup> Decree on the Organisation and Manner of Work of the State Administration, Official Gazette No.113/2023, Article 28.

<sup>78</sup> The PAR Strategy 2022-2026 is available at <https://www.gov.me/en/documents/0aaa040b-0413-46b6-a8c7-5b2c10cdc9dc>.

<sup>79</sup> The website is available at [https://www.gov.me/biblioteka?sort=published\\_at&dt=1&page=2&ou=33](https://www.gov.me/biblioteka?sort=published_at&dt=1&page=2&ou=33).

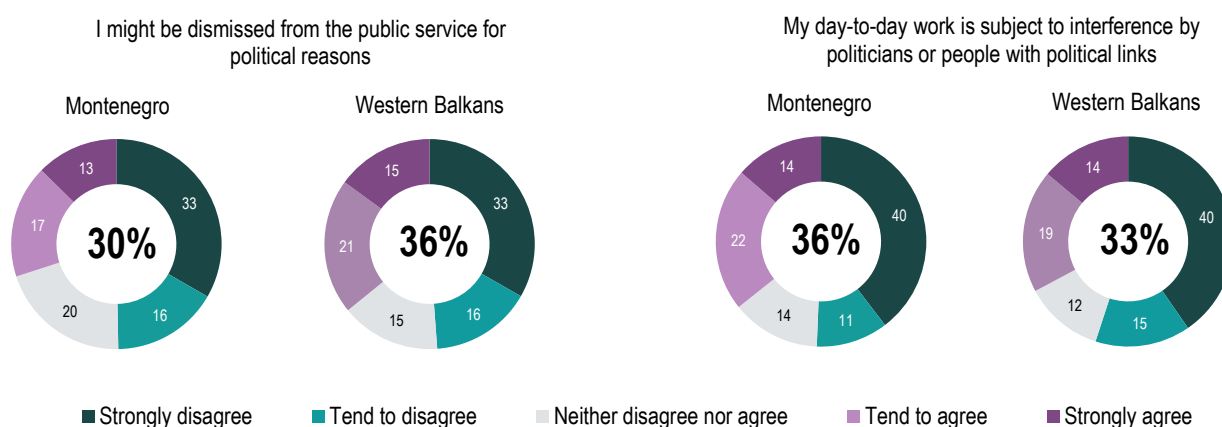
<sup>80</sup> The Handbook for Drafting Act on Internal Organisation and Systematisation dates from 2019, and the Decree on Criteria for Internal Organisation and Systematisation of Work in State Administration Bodies, Official Gazette No. 109/2023, was updated in 2023.

<sup>81</sup> Law on the State Administration, Official Gazette No. 078/18, 070/21, 052/22, Articles 66-69.

the HR Administration is not always successful in obtaining information from the state institutions.<sup>82</sup> Third, there is no evidence of fluent communication between the administrative inspection body and the HR Administration, which would contribute to the latter's monitoring role.<sup>83</sup> Finally, HRMIS is not fully used in daily HRM procedures, and data are not updated for all institutions.<sup>84</sup> The information system does not interoperate with the payroll database or other registers,<sup>85</sup> which hampers the HR Administration's monitoring capacities. The HRM function in state bodies is primarily administrative. In none of the analysed institutions do middle-level management positions include responsibilities for people management.

The CSL prescribes the professional and neutral exercise of public servants' duties<sup>86</sup> and their disciplinary liability. Disciplinary processes comply with basic procedural principles. Civil servants can reject an order they consider unlawful but are obliged to implement it if received in writing unless it constitutes a criminal offence or misdemeanour.<sup>87</sup> In these cases, they are discharged of liability, but legislation is silent about whom the civil servant should inform in such circumstances. More than one-third (36%) of public servants who responded to the SIGMA Survey of Public Servants perceived interference from politicians and people with political links in their daily decision making, and about 30% think they might be dismissed for political reasons. These results are similar to the regional average (Figure 17).

**Figure 17. Perceived political influence on day-to-day work and dismissal decisions, 2024**



Note: Percentage of valid responses to the questions: "To what extent do you agree or disagree with the following statements?" 1. "I might be dismissed from the public service for political reasons" and 2. "My day-to-day work is subject to interference by politicians or people with political links." The percentage in the middle is the share of the respondents who answered "strongly agree" or "tend to agree".

Source: SIGMA Survey of Public Servants on public administration in the Western Balkans 2024.

The CSL and implementing legislation do not provide detailed criteria or procedures to determine the impact of reorganisation on individual employment and decisions of reassignment, placement in the internal labour market, or eventual dismissal due to these processes. Two consecutive unsatisfactory

<sup>82</sup> Article 28 of the Decree on the Organisation and Manner of Work of the State Administration does not grant this power to the HR Administration.

<sup>83</sup> The activities of the administrative inspection body are aggregated, not detailed, in the MPA (2024), *Report on Work and Situation of Administrative Areas of the Ministry of Public Administration for 2023*.

<sup>84</sup> Information provided by the HR Administration: The Ministry of Interior has not introduced all required employee information to the registry.

<sup>85</sup> Education, taxes, employment, social security and civil records.

<sup>86</sup> CSL, Articles 5 and 9.

<sup>87</sup> CSL, Article 70.



appraisals can terminate employment, but no provision indicates that the supervisor must communicate performance expectations to a subordinate before the appraisal. Hence, this criterion for dismissal is not entirely objective. The insufficient guarantees of objective dismissals may fuel the perception of 30% of the survey respondents, who believed civil servants might be dismissed for political reasons, although this perception is among the lowest in the region (Figure 17). Furthermore, in 2023, 7.2% of appeals received by the Appeals Board dealt with the termination of employment relationships, indicating the contestability of these decisions.<sup>88</sup> However, other grounds for dismissal are objective.<sup>89</sup>

According to the CSL, temporary employment is possible based on open competition, clear grounds and time limits not exceeding two years. It cannot be converted into permanent employment. Nevertheless, its size and real duration are not monitored. Furthermore, a recent report by the State Audit Institution of Montenegro (SAI) revealed the misuse of other forms of temporary work in state bodies without involving an employment relationship.<sup>90</sup>

<sup>88</sup> Appeals Commission (2024), *Annual Report for 2023*, p. 10.

<sup>89</sup> CSL, Article 122: failure to pass an exam entitling to work in state authorities within one year after starting the employment relationship, not passing the probationary period, a disciplinary measure, or a court sentence of at least six months to unconditional prison. However, dismissal based on five consecutive days without attending work without justification leads to direct dismissal without disciplinary procedures, which is disputable.

<sup>90</sup> SAI (2023), *Engaging Natural Persons without Establishing an Employment Relationship in State Bodies*, Performance Audit, Final Report, Podgorica, 5 September.

## Principle 9: Public administration attracts and recruits competent people based on merit and equal opportunities.

HR planning in the central government administration is limited to recruitment. Open competition is the only way to access civil service positions in CSL, but special legislation in several regulatory agencies does not comply with this principle. The CSL does not ensure respect for merit order in the selection, and selection panels are vulnerable to political influence. Vacancy announcements are widely disseminated. Nevertheless, the lack of well-developed job profiles compromises the transparency and quality of recruitment and selection. Recruitment accounts for the highest share of second-instance administrative appeals.

Indicator 9. Transparency, professionalism, and effectiveness of recruitment of public servants		2024 indicator value	30/100
Sub-indicators		Points	
1.	Quality of human resource (HR) planning	0/10	
2.	Competitive and non-discriminatory recruitment	6/10	
3.	Transparency of recruitment	3.1/8	
4.	Inclusiveness of recruitment	1.4/6	
5.	Attraction of qualified candidates	1/8 <sup>i</sup>	
6.	Recruitment based on job profiles	0.4/8	
7.	Professionalism of the selection committees	4.4/14	
8.	Adequacy of selection methods	1.4/14	
9.	Efficiency and timeliness of recruitment procedures	2.7/10	
10.	Right to information on results and appeal	4.5/6	
11.	Quality of onboarding	4.7/6	

Note: i = data not available or not provided.

The HR plans adopted by the Government in 2023 and 2024 did not cover all central administration bodies. Moreover, they were adopted very late (in June 2023 for 2023 and in May 2024 for 2024).<sup>91</sup> This was due, among other reasons, to the reorganisation of processes and the need to adopt revised job systematisations before preparing the HR plan. The scope of the annual HR plan, prepared by the HR Administration based on the compilation of HR plans from central government bodies, is limited. It relates to recruitment exclusively and merely contains a list of tables per institution with the number of employees disaggregated by employment modality (open-ended, fixed term), planned versus occupied positions, and retirement cases. A comprehensive analysis of the current workforce and future needs does not support it. Even for recruitment purposes, the HR plan has limited value. A head of a state body can decide to fill a position if the vacancy is included in the HR plan.<sup>92</sup> However, for internal or external competition, the MoF must previously certify the existence of financial resources.<sup>93</sup>

<sup>91</sup> By June 2023, 42 authorities had submitted their plans except 3: the Ministry of Internal Affairs, the Directorate for Hydrocarbons and the Cabinet of the President. MPA (2024), *Report on Work and Situation in Administrative Areas of the MPA for 2023*, p. 443. According to the HR Administration, on 30 May 2024, the Government adopted an updated Partial HR Plan for state bodies and government services for 2024, comprising data for a total of 34 bodies. A Partial HR plan for 22 authorities had been adopted in March 2024.

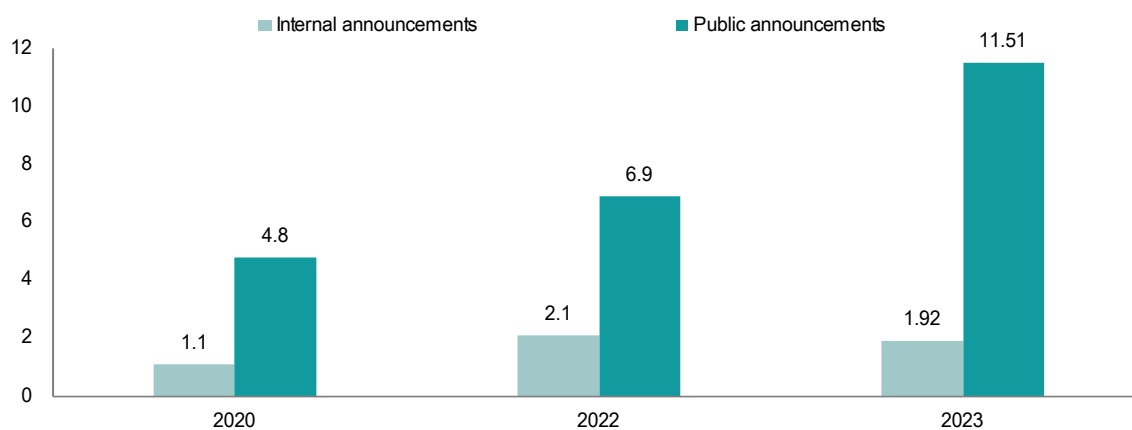
<sup>92</sup> CSL Article 38.

<sup>93</sup> CSL, Article 39.

The CSL regulates recruitment based on equal access and non-discriminatory criteria.<sup>94</sup> In the CSL, public competition is the only admission path into the public service.<sup>95</sup> However, special legislation that applies to the diplomatic services and regulatory agencies whose staff is under labour law<sup>96</sup> does not ensure this principle.<sup>97</sup> Vacancies are widely advertised, but job announcements lack sufficient information. They are announced on the official portal,<sup>98</sup> the recruiting authority's website and in newspapers at least 20 days before the application deadline. This offers reasonable time for diffusing and applying for the vacancy. However, no evidence exists of other outreach activities organised centrally or by public bodies offering the positions. Relevant information that should accompany an advertisement is not found, namely, essential duties and job responsibilities, specific skill requirements and work conditions.

The average number of applicants per position for competitions open to external candidates (excluding TPMs) has more than doubled since 2020 (Figure 18). This rise suggests a higher attractiveness of public service positions, but data are unavailable to know whether this increase translates to higher numbers of eligible candidates. The competitiveness of internal recruitment continues at very low levels.

**Figure 18. Average number of applicants to public and internal job announcements, 2020-2023**



Note: Data refer to positions below top public management.

Source: MPA (2024), *Report on the Implementation of the Public Administration Strategy Action Plan 2022-2024 in 2023*, p. 26.

There is room for improvement in organising recruitment for people with disabilities. Regulation to adapt the recruitment and selection procedures to their needs is missing, and there is no evidence that their participation in recruitment is encouraged or that the selection panel members receive disability awareness training. The HR Administration confirmed the adaptation of recruitment procedures ad hoc upon request, but there is no guarantee that this good practice is systematically applied if it is not regulated.

<sup>94</sup> CSL, Articles 10, 34.

<sup>95</sup> CSL, Articles 10, 40.

<sup>96</sup> Law on Foreign Affairs, Official Gazette No. 70/2017; Law on Energy, Official Gazette No. 82/2020); Law on Electronic Communications, Official Gazette No. 49/2019; Law on Electronic Media, Official Gazette No. 82/2020.

<sup>97</sup> In these institutions, competition is not the sole method for entering public service. Furthermore, there is no requirement to appoint the highest-ranked candidate from a competition. Additionally, candidates lack the legal right to appeal hiring decisions to the Appeals Board.

<sup>98</sup> The official portal is available at <https://uzk.gov.me/oglasji/index.php>.

The legislation guarantees that the selection panel members are qualified professionals.<sup>99</sup> The commission is balanced since it consists of a representative of the HR Administration, the head of the unit where the vacancy belongs or the immediate supervisor,<sup>100</sup> and an expert from the appropriate field of work. The head of the HR Administration appoints the experts from a list that the HR Administration produces. However, this professional layout can be tainted. The legislation does not exclude experts who hold a political function from being on the list. Another weakness of the panel is that only members from the expert list receive training on the selection process.

Candidates are assessed through an electronic knowledge-based test, practical written exercises also focused on knowledge, and oral examinations for all competitions to fill non-senior civil service vacancies.<sup>101</sup> Information to assess the nature and relevance of the examination materials in selected cases was insufficient.<sup>102</sup> The absence of well-developed job descriptions and job profiles is also a major impediment to good quality assessment of candidates. The legislation does not include specific requirements for effective job performance (knowledge, skills, attitudes) and regulates job descriptions only generally. The review of selected recruitment files confirmed these omissions in most cases.<sup>103</sup>

The legal margin of discretion of the appointing authorities, who are the heads of public bodies (the ministers in ministries), challenges the merit principle as they can appoint anyone on the shortlist with the three best scores after the selection process and upon an interview.<sup>104</sup> Nevertheless, in 2023, the highest-ranked candidates were appointed in all cases analysed.

In 2023, the average length of open competitions was 111 days in the 3 authorities analysed,<sup>105</sup> higher than 90 days in 2020.<sup>106</sup>

Applicants are informed of the results of each round of the selection process and have the right to appeal to the Appeals Commission, an administrative appeal instance under the government, in case of disagreement or even to the court. Recruitment has the highest share of appeals: 23.4% of the total received by the Appeals Commission.<sup>107</sup> Some complaints of recruitment candidates might go directly to the courts due to administrative “silence” (a non-decision) from the Appeals Commission. This issue occurs frequently (with 78 complaints recorded in 2023)<sup>108</sup> across various types of appeals. The problem arises because first-instance bodies tend to retain case files instead of forwarding them to the second appeal

<sup>99</sup> CSL, Article 46; Decree on the Criteria and More Detailed Manner of Examining Knowledge, Abilities, Competencies and Skills for Work in State Bodies, Official Gazette No. 50/2018, Article 26.

<sup>100</sup> A practice observed in the recruitment files of three institutions: MoF, Ministry of Education (MoE), and the Employment Agency.

<sup>101</sup> CSL, Article 46; Decree on the Criteria and More Detailed Manner of Examining Knowledge, Abilities, Competencies and Skills for Work in State Bodies, Official Gazette No. 50/2018.

<sup>102</sup> Recruitment files provided by the MoF, MoE, and the Employment Agency did not contain relevant details, although the HR Administration provided examples of computer-based knowledge exams used in other procedures. The Ministry of the Interior and the Tax Administration did not provide recruitment files.

<sup>103</sup> The only exceptions were job announcements and job descriptions in the files provided by the Employment Agency, which included a detailed list of the job’s duties and responsibilities. However, specific job requirements and work conditions were absent in all cases.

<sup>104</sup> CSL, Articles 47 and 48. Several candidates who obtained the same score can be included in the shortlist.

<sup>105</sup> It ranges from 65 days in the MoF to 153 in the MoE.

<sup>106</sup> OECD (2021), *SIGMA Monitoring Report: Montenegro*, OECD, Paris, <https://www.sigmaweb.org/publications/Monitoring-Report-2021-Montenegro.pdf>.

<sup>107</sup> Appeals Commission (2024), *Annual Report for 2023*, p. 10.

<sup>108</sup> Appeals Commission (2024), *Annual Report for 2023*, pp. 14 and 16.

instance or fail to communicate the Appeals Commission's decision to the complainant. These actions indicate capability issues within the first-instance appeal bodies in managing these procedures.<sup>109</sup>

### Principle 10: Effective leadership is fostered through competence, stability, professional autonomy and responsiveness of accountable top managers.

The legislation clearly defines TPM positions, differentiating them from political functions. It establishes competitive recruitment, merit-based selection criteria, and terms of appointment that are longer than those of the legislature. Nevertheless, this legal framework failed to prevent significant instability, which points to the politicisation of this critical role. The possibility of acting appointments, including people from outside the civil service, without any guarantee of merit, contributes to this situation. This unpredictability and low salaries result in the low attractiveness of TPM positions.

Indicator 10. Professional top managers		2024 indicator value	35/100
Sub-indicators		Points	
1.	A specific category and scope of the Top Public Management (TPM) system	8/11	
2.	Attractiveness of top management positions	0.7/7	
3.	Merit-based and competitive recruitment of top managers	10.8/47	
4.	Diversity and gender parity in top management positions	2.7/5	
5.	Management by objectives and performance evaluation	3.4/4	
6.	Managerial autonomy	1.8/2	
7.	Training and professional development	3.6/4	
8.	Stability of top managers	4/20	

The Law on the State Administration and the CSL clearly demarcates the scope of TPM positions in ministries and other administrative bodies, includes positions one and two levels below ministers, and distinguishes them from political functions.<sup>110</sup> More specifically, TPM in ministries encompasses the secretary of the ministry and the general director, clearly differentiated from the political functions of ministers and state secretaries. Secretaries of ministries co-ordinate the units performing financial, personnel, information technology, and office work and promote co-operation across different areas within the ministry. General directors manage large policy areas, including the preparation of public policies, regulations and other ministerial tasks.<sup>111</sup> TPM positions in other administrative bodies include the head of the body and the assistant head. The Law on the State Administration establishes state agencies and state funds as "holders of public authority" accountable to the government. Directors of these bodies are distinguished from political steering functions exercised by management councils (in state agencies) and boards (in state funds).<sup>112</sup> However, the Law on the State Administration opens the door to establishing other "holders of public authority" as legal entities different from agencies and funds in Article 49, without any reference to their management.

Access to TPM in ministries, other state administration bodies, state agencies and state funds is based on a public competition.<sup>113</sup> Nevertheless, while the subjection of public competitions to merit-based rules is

<sup>109</sup> Appeals Commission (2024), *Annual Report for 2023*, p. 16.

<sup>110</sup> CSL, Articles 18, 21-24; Law on the State Administration, Chapter IV

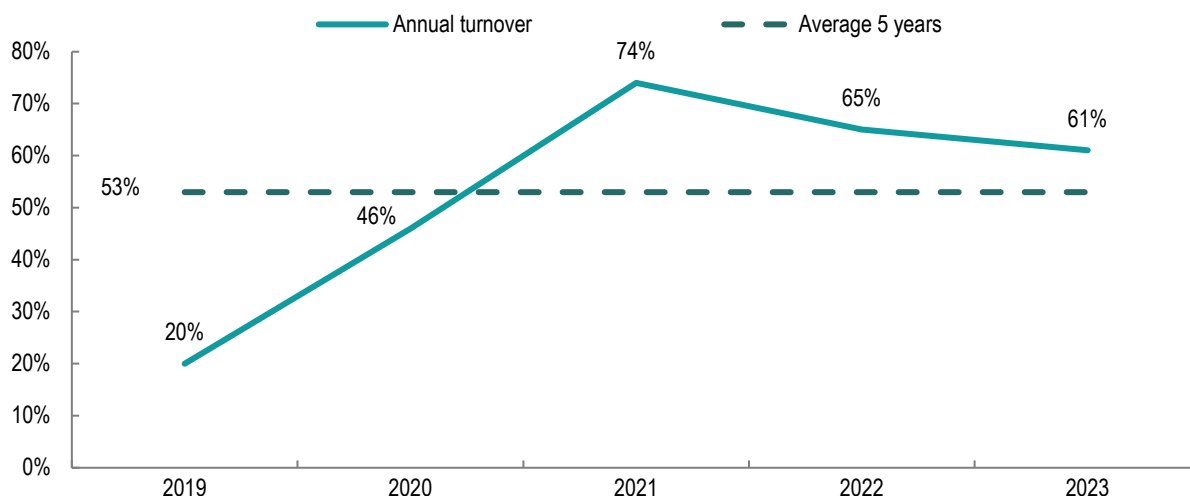
<sup>111</sup> Law on the State Administration, Articles 31 and 32.

<sup>112</sup> Law on the State Administration, Articles 43-44, 46-47.

<sup>113</sup> CSL, Article 41; Law on the State Administration, Articles 31-34.

established for TPM positions within the scope of the CSL, it is not guaranteed in public bodies outside this scope whose staff is subject to labour law or special legislation. TPMs are appointed for five years,<sup>114</sup> one year longer than the legislature, which should contribute to their stability. However, in 2019-2023, the average turnover in these positions in the central government administration was 53%. This value conceals an extremely high turnover (74%) in 2021 following the parliamentary elections in August 2020 and in the following years, alongside high instability in the government (Figure 19). This situation reflects the vulnerability of TPMs to political changes.

**Figure 19. Turnover in TPM positions, 2019-2023**



Source: HR Administration of Montenegro.

The provision allowing for acting appointments of external candidates<sup>115</sup> without transparent and merit-based procedures increases the risk of political influence in the civil service. One-third (32%) of all TPM positions were filled through acting appointments in December 2023<sup>116</sup> and the six-month limit established in legislation is often ignored, which leads to the discretionary appointment of TPMs in practice.

Consistent with the high instability registered in TPM positions in recent years, the attractiveness of TPM positions, as shown by the number of applicants per vacancy, is low. On average, there were only three applicants per vacancy in 2023, although this number improved slightly in the last few years (Figure 20). In 2023, only 30% of competitions to fill TPM positions had five or more candidates.<sup>117</sup>

The estimated gross salary for TPM positions one level below ministers was only 2.3 times the gross domestic product (GDP) per capita in 2023,<sup>118</sup> which contributes to the limited attractiveness of these positions. This ratio is far below the average of 5.8 in OECD countries (only available for 2017).<sup>119</sup>

<sup>114</sup> Law on the State Administration, Articles 31-34, 44 and 47.

<sup>115</sup> CSL, Article 61.

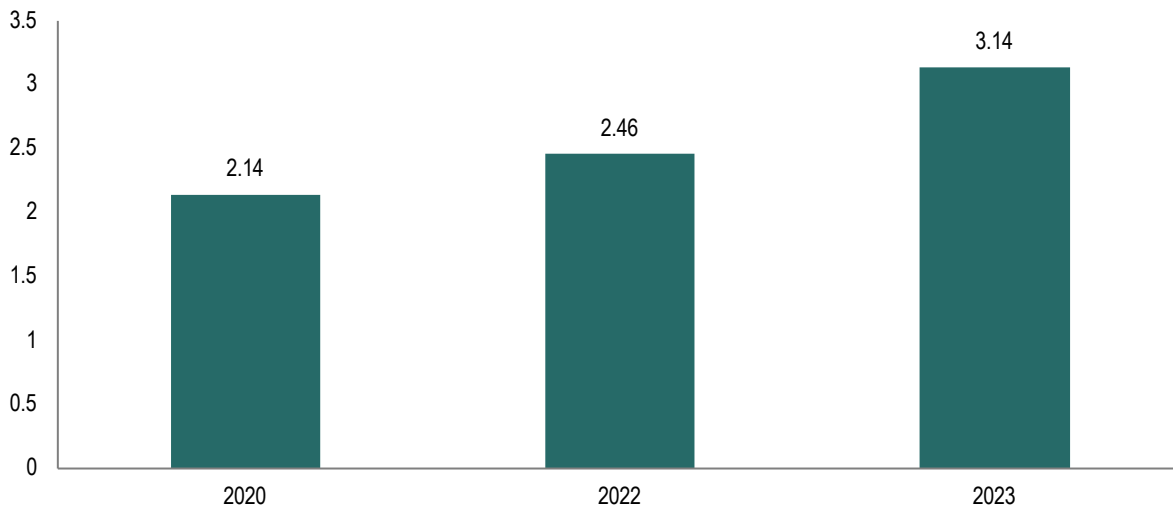
<sup>116</sup> Data provided by the HR Administration: 233 top managers, 74 acting positions in 2023.

<sup>117</sup> Data provided by the HR Administration: 40 recruitment procedures to fill TPM positions, 12 of these procedures had 5 or more eligible candidates.

<sup>118</sup> Estimation of the gross monthly salary of a TPM in 2023 provided by the MoF (position of secretary of the ministry with 20 years of experience): EUR 2 076.86. Annual GDP per capita for 2023: EUR 10 817 (European Commission [https://webgate.ec.europa.eu/isdb\\_results/factsheets/](https://webgate.ec.europa.eu/isdb_results/factsheets/)), divided by 12 months = EUR 901.41.

<sup>119</sup> Ratio for D1 level, i.e. positions one level below ministers. OECD (2017), *Government at a Glance 2017*, OECD Publishing, Paris, [http://dx.doi.org/10.1787/gov\\_glance-2017-en](http://dx.doi.org/10.1787/gov_glance-2017-en).

**Figure 20. Average number of applicants in competitions to fill TPM vacancies, 2020-2023**



Source: MPA (2024), *Report on the Implementation of the Public Administration Strategy Action Plan 2022-2024 in 2023*, p. 26.

In the CSL, the selection process for TPM positions includes elements of open competition based on merit. First, vacancies are advertised at least 20 days before the competition starts, offering time for diffusion and application. Second, the composition of the selection committee<sup>120</sup> is professional. In the central government administration, it is formed by the HR Administration, chaired by the head of this body, who is a TPM, and comprises another TPM and one expert from an expert's list formed by the HR Administration.<sup>121</sup> Third, the CSL establishes compulsory testing of competencies, knowledge and skills, including written tests and structured interviews. Interviews must be conducted using prescribed criteria from a competency framework applying to these positions. Fourth, the CSL mandates the committee to produce a shortlist with the three highest scores. In the reviewed recruitment files, the highest-rated candidate was appointed.

Nevertheless, the selection process has some weaknesses. First, despite the existence of a competency framework for senior managers, competency profiles for the positions have not been developed. Second, there is no legal impediment for panel experts to be political appointees<sup>122</sup> (the information in the selected recruitment files was insufficient to verify whether this was the case in practice). Third, the recruitment panel composition does not guarantee expertise in HR selection by at least one of its members. This hampers the possibility of properly applying competency-based assessment of candidates.

Top managers who responded to the SIGMA Survey of Public Servants feel empowered to exercise their functions autonomously (80%). However, only 67% said that their performance was assessed at least once in the last two years, the lowest percentage in the region. A significant proportion (74%) declared having attended training in the previous year, similar to other Western Balkan administrations.<sup>123</sup>

<sup>120</sup> CSL, Article 56 for senior managers, and Article 58 for heads of authorities.

<sup>121</sup> If the vacancy to be filled is that of the Head of the HR Administration, the selection committee is appointed by the Minister of Public Administration and consists of a TPM from that ministry and two experts from the list.

<sup>122</sup> Decree on Selection, Article 27, regulates the composition of the commissions.

<sup>123</sup> SIGMA Survey of Public Servants on the functioning of public administration in the Western Balkans 2024.

Diversity in TPM positions is high regarding gender, with women occupying 42.5% of TPM positions, slightly above the OECD average in 2021.<sup>124</sup> Other diversities (people with disabilities, minority groups) are not encouraged or monitored.

### Principle 11: Public servants are motivated, fairly and competitively paid and have good working conditions.

The allocation of base salaries is based on job classification. However, the limited development of job descriptions, evaluation and classification methods challenges the salaries' internal fairness. Several salary top-ups for different institutions and positions without clear grounds contribute to this situation. The MoF regularly collects data on individual salaries to manage the payroll, but there is no publicly available information or analysis on remuneration beyond legislation. Despite these drawbacks in the salary system, overall public service job satisfaction and engagement expressed in surveys are high.

Indicator 11. Attractiveness of employment and work conditions		2024 indicator value	25/100
Sub-indicators		Points	
1.	Attractiveness of employment in public administration	2.6	20
2.	Fairness in the allocation of base salaries and allowances	3.4	23
3.	Predictability of the wage budget of the public service	6	6
4.	Availability and transparency of salary information	0	8
5.	Salary progression opportunities	4	8
6.	Performance-related pay and other incentives	1.6	8
7.	Work conditions and well-being of public servants	5	13
8.	Availability of flexible work arrangements	1.3	7
9.	Social dialogue with the public sector employees	1	7

The analysis of the attractiveness of public service work offers a mixed picture. The level of voluntary turnover (2%) is low, and almost two-thirds (65.5%) of public servants who responded to the SIGMA Survey of Public Servants would recommend their organisation as a good place to work.<sup>125</sup> On the negative side, civil servants express low satisfaction with their salary (only 43% state being satisfied) and even less (24%) with other benefits (housing, transportation or education allowances and pensions, among others). Only 26% of respondents consider that staff are paid fairly across the public administration (Figure 21), which figures among the region's lowest results.<sup>126</sup> Decisions determining the salary category constituted the second item (19.8%, 163 out of 824 appeals) for which the Appeals Commission received more complaints in central government in 2023.<sup>127</sup>

The lack of data and analysis on the salary system, its internal fairness and competitiveness do not make it possible to determine the extent to which the relatively high level of dissatisfaction and perceived

<sup>124</sup> On average, across OECD-EU countries, 40.8% of senior positions were held by women in 2021. OECD (2023) *Government at a Glance*, pp. 182-183.

<sup>125</sup> These results coincide with similar questions in a survey conducted by the HR Administration in 2023 with SIGMA's support on staff satisfaction in the state administration: 60% of respondents would recommend their institution to others, and 73% would continue to work in their institution.

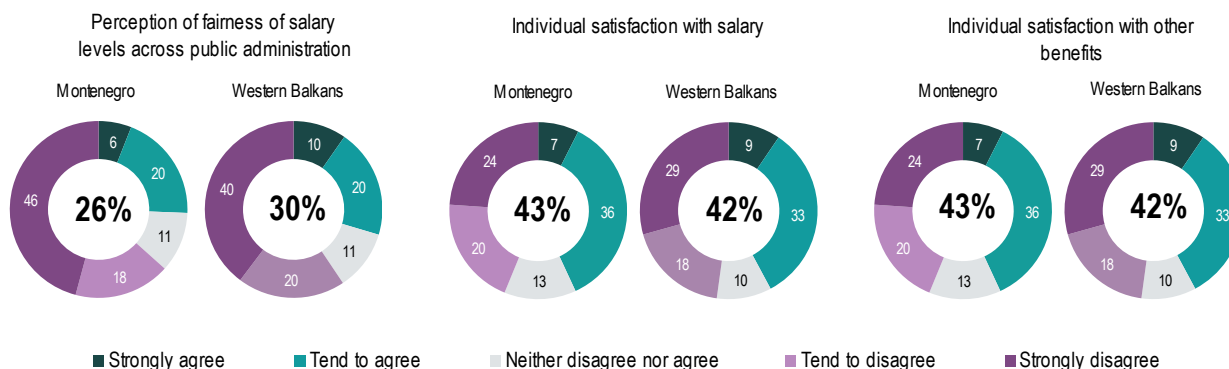
<sup>126</sup> SIGMA Survey of Public Servants on the functioning of public administration 2024.

<sup>127</sup> Appeals Commission (2024), *Annual Report for 2023*, p. 10.



unfairness has an objective basis. Even general information on civil service salaries (e.g. the salary scale and average salaries by civil service category) is not publicly disclosed beyond the mandatory publishing required by the Law on the Salary of Employees in the Public Sector (LSEPS)<sup>128</sup> and branch collective agreements in the Official Gazette. Job announcements do not include information on the salary (or salary range) offered in job vacancies.

**Figure 21. Public servant perceptions about salaries and benefits, 2024**



Note: Percentage of valid responses to the questions: "To what extent do you agree or disagree with the following statements?" 1. "Staff is paid fairly across the public administration", "I am satisfied with my salary" and 3. "I am satisfied with my other benefits like housing, transportation or education allowances, pension, health, development opportunities, etc.". The percentage in the middle is the share of the respondents who answered "strongly agree" or "tend to agree".

Source: SIGMA Survey of Public Servants on public administration in the Western Balkans 2024.

Nevertheless, the analysis of the salary system in legislation reveals two elements that hinder the fair allocation of base salaries. First is the absence of well-defined criteria, methods and procedures for job description, evaluation and classification. The CSL and secondary legislation establish the job classification and general job evaluation criteria.<sup>129</sup> However, the criteria and procedure for evaluating positions are not defined, and a job description methodology aligned with the job evaluation criteria is not in place.<sup>130</sup> Second, the LSEPS makes it possible to determine different base salary coefficients that are not linked to the type of job but to the type of institution. This is the case in regulatory agencies,<sup>131</sup> where employees below TPM positions enjoy higher coefficients than staff in ministries, regardless of the job characteristics.

Furthermore, the LSEPS and implementing legislation do not provide clear grounds for granting some salary supplements, particularly for the work carried out in certain positions. This supplement, up to 30% of the basic salary, must be regulated and approved by the Government for some groups (civil servants, police officers and employees of state institutions). In other cases, it is left to the discretion of the

<sup>128</sup> Law on the Salary of Employees in the Public Sector, Official Gazette No. 113/2023.

<sup>129</sup> The Decree on Criteria for Internal Organisation and Systematisation of Work in State Administration Bodies, Official Gazette No. 109/2023, develops job classification; Articles 8-15 and Articles 16-17 further develop the method of classifying jobs based on CSL criteria.

<sup>130</sup> The Decree on Criteria for Internal Organisation and Systematisation of Work in State Administration Bodies includes only a few references to job descriptions. Article 20 states that the systematisation must include the job code, job title, job description, and general and specific requirements to perform job tasks. The same provisions say job descriptions must be "concise and clear". There is no further guidance. The 2019 Manual on Preparing Acts on Internal Organisation and Job Systematisation does not add relevant information, pp. 7-9.

<sup>131</sup> LSPES, Article 24.

appropriate authorities. Exceptionally, without additional specification,<sup>132</sup> this supplement could rise to 45% or 60% for other groups (judiciary). A similar lack of specifications applies to the allowances for managing the Instrument for Pre-Accession Assistance funds.<sup>133</sup>

This lack of clarity also applies to the variable pay component that may be awarded to an employee with exceptional work performance.<sup>134</sup> The legislation only establishes maximum thresholds without explaining how the specific amount is determined and to whom it is awarded among the outstanding employees. There is no direct link between this variable part and performance appraisal. Hence, it is not surprising that only 52% of public servants who answered the SIGMA Survey of Public Servants considered that monetary and non-monetary rewards improve their colleagues' performance.<sup>135</sup> Notwithstanding these issues in allocating salary components, the wage bill is predictable, even if there are some deviations.<sup>136</sup>

Other elements that contribute to the well-being of civil servants, such as occupational health and safety procedures, are well established in legislation.<sup>137</sup> However, flexible work arrangements and teleworking did not remain in public administration after the COVID-19 crisis, and they are not regulated for public servants. Despite legislation providing for the participation of public servants in trade unions, there is no evidence of staff representatives' involvement in dialogue on work conditions and legislative changes affecting their rights and duties.

Notwithstanding these drawbacks, overall job satisfaction scored high (3.93 out of 5) in an engagement survey run by the HR Administration with SIGMA support in 2023.<sup>138</sup> The same survey showed high levels of engagement with the job (4.05 out of 5), satisfaction with the level of responsibility (3.83), with the job content (3.71) and the employer (3.74), among other factors. This is consistent with the significant proportion of respondents (65.5%) to SIGMA's Public Servants Survey that were willing to recommend their organisation as a good workplace, as commented on at the beginning of this chapter.

<sup>132</sup> Decision on the Salary Supplement for Performing Work at Specific Job Positions, Official Gazette No. 096/2023, defines eligible authorities, job categories and the maximum amount of allowance for work in these positions but does not specify the criteria determining the granting of a specific amount of this allowance.

<sup>133</sup> Decision on the Salary Supplement for Performing Work at Specific Job Positions, Official Gazette No. 96/2023, Articles 3-6.

<sup>134</sup> Decision on the Variable Part of Salary, Official Gazette 9/2024, Articles 3-6.

<sup>135</sup> SIGMA Survey of Public Servants on the functioning of the public administration 2024.

<sup>136</sup> The payroll (including gross wages and contributions paid by the employer) is included in the Medium-Term Budget Framework. The forecast was exceeded by 1.2% (EUR 7.8 million) in 2023, i.e. the difference between the planned wage bill (EUR 635.2 million) and the actual (implemented) wage bill (EUR 643 million) for public employees in 2023. Data provided by the MoF.

<sup>137</sup> Law on Occupational Health and Safety, Official Gazette No. 044/18.

<sup>138</sup> HR Administration (2023), "Information on the Conducted Analysis of Employee Satisfaction in the State Administration". Data provided for the assessment and also included in the MPA (2024), *Report on Work and Situation in Administrative Areas of the Ministry of Public Administration for 2023*, p. 473.

### Principle 12: Professional development, talent and performance management enhance the skills, efficiency and effectiveness of public servants and promote civil service values.

The centralised training managed by the HR Administration is well structured and based on needs, but civil servant participation is low. The performance appraisal system lacks essential elements, and the high share of above-average results makes the system increasingly irrelevant. Legislation does not ensure merit in promotion, and the perceived influence of factors influencing career progression other than performance is above the Western Balkan average.

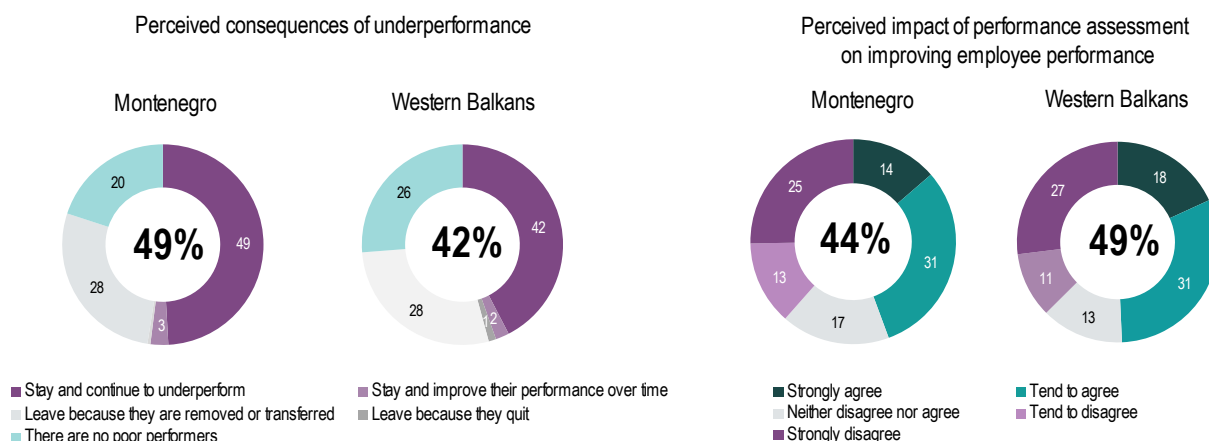
Indicator 12. Professional development and performance management of public servants		2024 indicator value	30/100
Sub-indicators		Points	
1.	Professionalism of performance assessment	4.5/21	
2.	Existence of training plans adapted to government priorities	5/8	
3.	Implementation and results of training	7.3/16	
4.	Regulation and use of horizontal mobility	1.5/16	
5.	Professionalism of vertical promotion	3/26	
6.	Support of professional development practices for diversity and inclusion	8.5/13	

Legislation provides for performance appraisal of civil servants and state employees.<sup>139</sup> However, legal provisions present some significant gaps. The CSL does not compel supervisors to establish and communicate performance objectives, and an interview to discuss the objectives and appraisal results is not compulsory. Answers to the SIGMA Survey of Public Servants on the practice of performance appraisals show that, despite legislative gaps, performance objectives were set in some cases (60% of respondents), and discussions about the results took place (64%).

The proportion of results of individual performance above the central category (“good”) is high and shows an increasing trend: 88% of employees assessed in 2022 and 90% in 2023 were rated as “excellent” (Figure 24). This makes the system useless in identifying and rewarding good performance. Consistently, the perceived real value of performance appraisal by public servants is limited. Only 44% of respondents to the SIGMA Survey of Public Servants consider that performance evaluation triggers improvement in their institution (below the regional value), and 49% agree that underperforming has no consequences (above the regional value) (Figure 22). Not surprisingly, the implementation of performance appraisal is limited and declining. In 2023, only 39% of civil servants and employees were assessed (Figure 23).

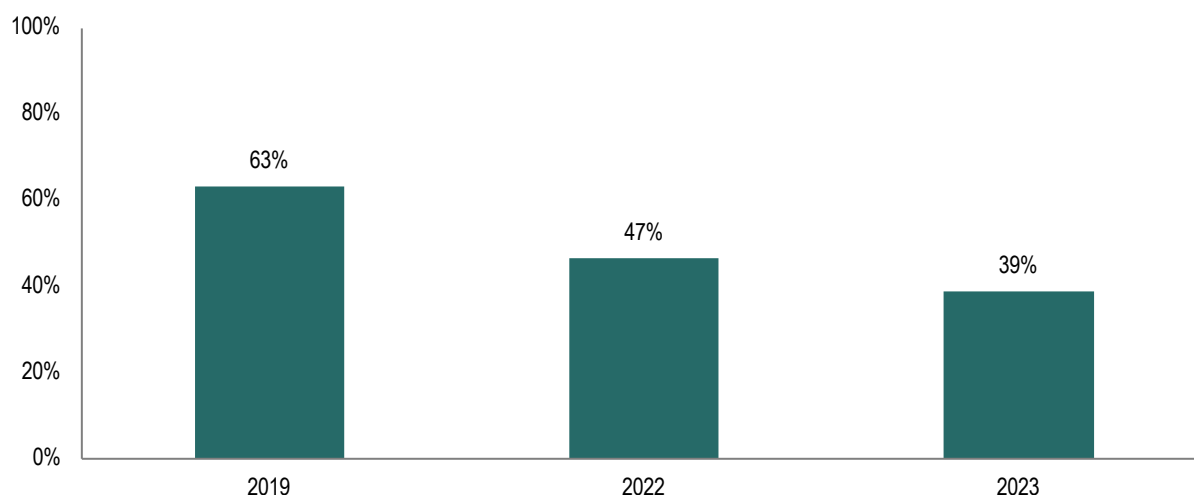
<sup>139</sup> CSL, Article 82, links compulsory training to unsatisfactory performance; Article 63 requires excellent appraisal in the previous year for promotion; Article 122 links dismissal to two consecutive negative appraisals.

**Figure 22. Perceived impact of performance assessment, 2024**

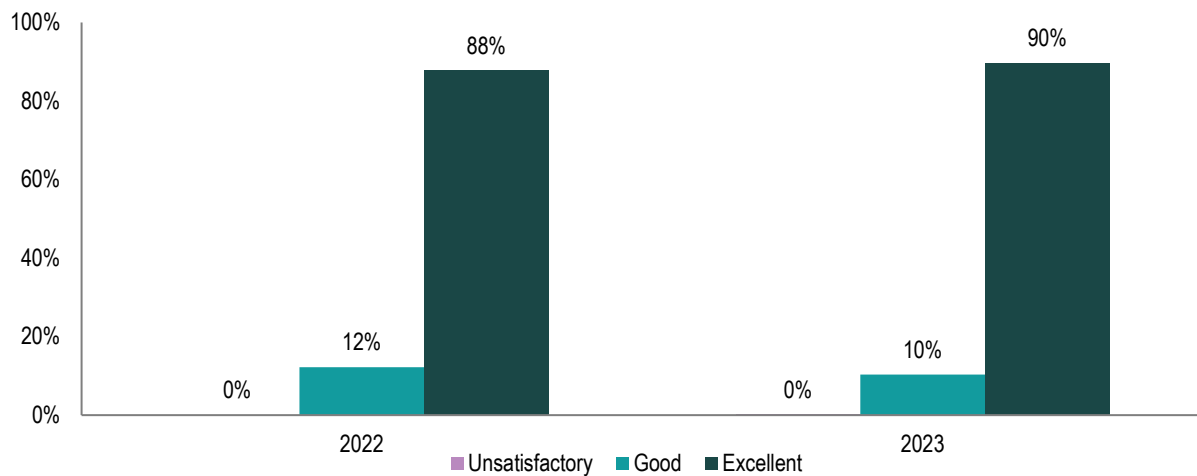


Note: Percentage of valid responses to the questions: "In my organisation, poor performers usually.... Select one answer please: 1. Stay and improve their performance over time. 2. Stay and continue to underperform. 3. Leave because they are removed or transferred. 4. Leave because they quit. 5. There are no poor performers. 6. Prefer not to respond" and To what extent do you agree or disagree with the following statement?. "Performance evaluation in my institution has improved employees' performance". The percentage in the middle is the share of the respondents who answered "stay and continue to underperform" to the first statement and "strongly agree" or "tend to agree" to the second statement. Source: SIGMA Survey of Public Servants on public administration in the Western Balkans 2024.

**Figure 23. Share of civil servants whose performance was assessed, 2019-2023**



Source: Data for 2019 and 2022: MPA (2024), PAR Monitoring Report for 2023. Data for 2023: HR Administration.

**Figure 24. Distribution of performance appraisal grades**

Source: Data for 2022: MPA (2024), *PAR Monitoring Report for 2023*. Data for 2023: HR Administration.

The CSL (Article 86) establishes training and professional development as the right and responsibility of civil servants and state employees. Centralised training is organised, monitored and evaluated by the HR Administration.<sup>140</sup> The training plan, with a completion rate of 83%,<sup>141</sup> is based on training needs analysis, reflecting also national priorities.<sup>142</sup> On-site and online training is available to civil servants.<sup>143</sup> Nevertheless, enrolment in centralised training activities in the central government administration is limited, based on the available data: 8.2% of public servants participated in training organised by the HR Administration in 2023.<sup>144</sup> The share of state bodies that prepare training plans is also low (only 29.5%),<sup>145</sup> and data on the implementation of decentralised training do not exist. Flexible learning approaches like online learning platforms or communities of practice are not yet in place. Nevertheless, civil servants perceive training positively: 83% of respondents claim that the learning activities completed in the last 12 months helped them improve their performance. But the positive perception among managers is lower: two-thirds (67%) consider that the training provided to the staff contributes to improving their performance.<sup>146</sup>

According to the CSL, mobility occurs through temporary or permanent staff transfers at the decision of the responsible authorities and internal competition.<sup>147</sup> Comprehensive data on mobility do not exist, but

<sup>140</sup> MPA (2024), *Report on Work and Situation in Administrative Areas of the Ministry of Public Administration for 2023*.

<sup>141</sup> Some 80 training courses were planned and 66 were implemented in the general programme of professional training and development of civil servants and state employees, which applies to the central government administration. This information comes from MPA (2024), *Report on Work and Situation in Administrative Areas of the Ministry of Public Administration for 2023*.

<sup>142</sup> Priorities established in the PAR Strategy and the PFM Reform Programme.

<sup>143</sup> MPA (2024), *Report on Work and Situation in Administrative Areas of the Ministry of Public Administration for 2023*.

<sup>144</sup> There were 14 139 civil servants and employees in the central government administration at the beginning of 2023 (information provided by the HR Administration). Some 1 158 civil servants and state employees participated in professional training and development, according to HR Administration (2024), *Annual Report for 2023*, Section 5.1.1.

<sup>145</sup> MPA (2024), *PAR Monitoring Report for 2023*, p. 27.

<sup>146</sup> SIGMA Survey of Public Servants on the functioning of public administration 2024.

<sup>147</sup> CSL, Article 40, on the way of filling vacancies, and Articles 63-66, on permanent and temporary transfers.

data available on internal competitions show that their competitiveness and effectiveness in practice remain very low. In 2023, there were only 1.9 applicants on average per vacancy in such competitions. This is consistent with the low share of vacancies filled: only 24% (from 22% in 2020)<sup>148</sup> (Figure 18 in the analysis of Principle 9).

Permanent transfer of staff is only loosely regulated,<sup>149</sup> leaving room for reassignment to a higher job grade without assessing the civil servant's merits for the new job. More specifically, the legislation allows civil servants to be permanently assigned to a higher job grade if positions involve the same general requirements (educational level and work experience) and upon reception of an "excellent" rating in the performance evaluation. The result of past performance evaluation provides a weak basis for decisions on career progression due to the excessive number of above-average results. Furthermore, the decision is made by the head of the body, such as the minister in ministries, with a simplified justification, allowing for arbitrary discretion.<sup>150</sup>

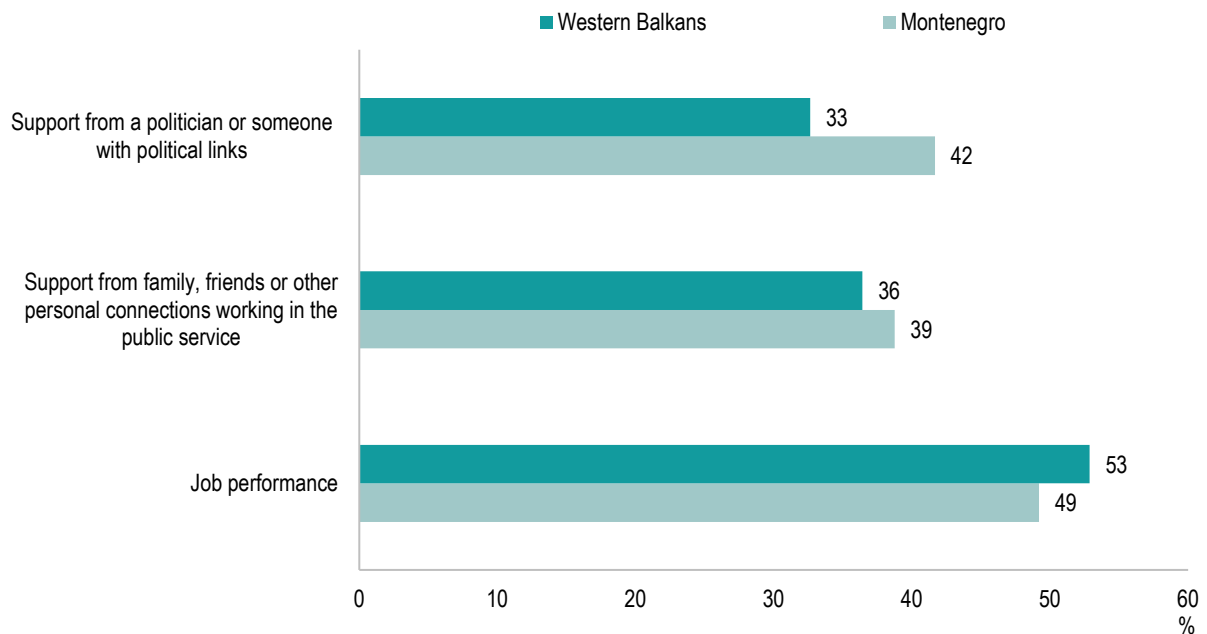
In this context, the modest percentage of public servants surveyed by SIGMA who consider job performance "very important" for career advancement (49%) seems to be a good result, which may be influenced by the fact that performance appraisal results must formally be considered for promotion. Yet, this perception of the importance of performance is among the lowest in the region. At the same time, the percentage of respondents considering personal relations or political support "very important" for career advancement (39% and 42%, respectively) is above the regional average (Figure 25).

<sup>148</sup> *Annual Work Report of the HR Administration for 2020*, p. 11; MPA (2024), *Report on Work and Situation in Administrative Areas of the Ministry of Public Administration for 2023*, Section on Human Resource Administration Activity Report, pp. 6-8.

<sup>149</sup> CSL, Article 63.

<sup>150</sup> The implementation of this procedure was confirmed in the review of a reduced number of files. Four promotion cases were analysed, two from the MoF and two from the Tax Administration. Files requested from the Ministry of the Interior, the MoE and the Employment Agency were not provided and could not be analysed.

**Figure 25. Perceived importance of different criteria for career advancement**



Note: Percentage of valid responses to the questions: "Thinking about your career advancement in the public service, how important do you expect the following criteria to be for your advancement to better positions within the public service?" 1. "Job performance", 2. "Support from family, friends or other personal connections working in the public service", and 3. "Support from a politician or someone with political links."

Source: SIGMA Survey of Public Servants on public administration in the Western Balkans 2024.

Positive action to encourage public servants from underrepresented groups to participate actively in mobility and promotion opportunities is not a common practice in the central government administration. Even so, there is evidence of training activities organised by the HR Administration around gender-related issues in 2023.



## Organisation, accountability and oversight

The organisation of the public administration is **efficient** and **effective** across all levels of government. Public administration bodies are **open** and **transparent** and apply clearly defined internal and external accountability mechanisms. Strong oversight bodies protect the rights of citizens and the public interest.

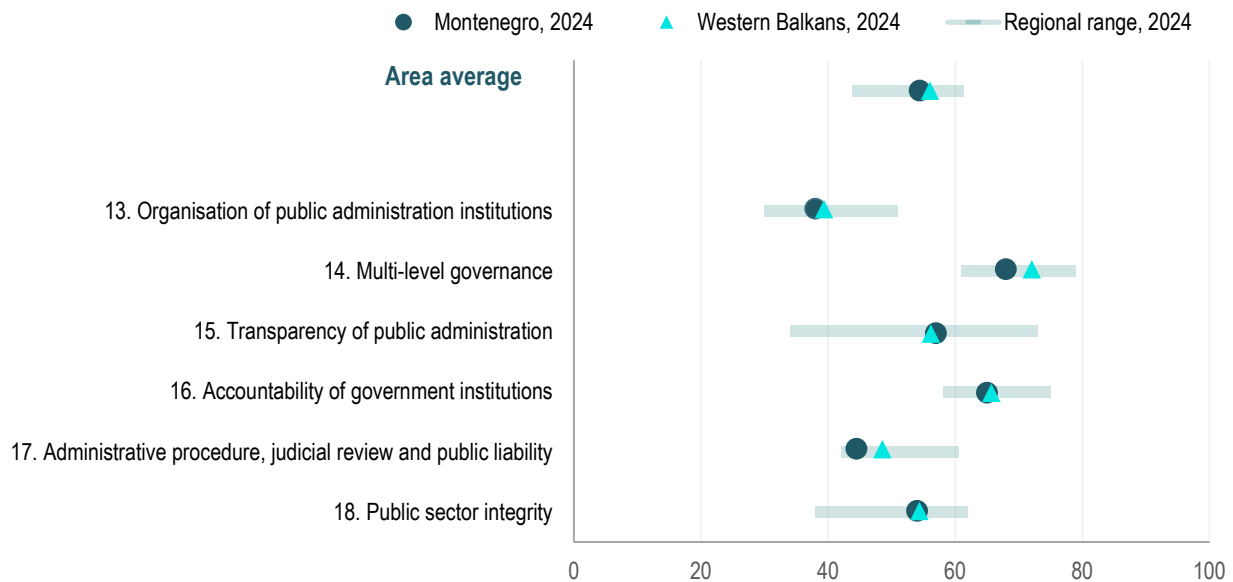
### The Principles of Public Administration

- Principle 13** The organisation and management of public administration foster accountability, effectiveness and efficiency.
- Principle 14** Responsibilities are clearly distributed between levels of government, embracing the principle of subsidiarity and local autonomy, and facilitating inter-institutional co-ordination with effective oversight mechanisms.
- Principle 15** Public administration is transparent and open.
- Principle 16** The parliament, ombudsperson and supreme audit institution effectively scrutinise public administration.
- Principle 17** The right to good administration is upheld through administrative procedure, judicial review and public liability.
- Principle 18** A coherent and comprehensive public sector integrity system minimises the risks of corruption.



## Summary and recommendations

Figure 26. The overall indicator values in the organisation, accountability and oversight area



Notes: The area average is a simple average of the Principles within the area. The Western Balkan average is calculated as a simple average of all administrations.

The framework legislation on the organisation of public administration provides comprehensive coverage of the central public administration's organisational structure. However, the practical application has led to accountability issues. Specifically, some **institutions lack proper accountability to their respective sector ministries: some are inappropriately placed under the Assembly's oversight, and others report directly to the Government.** State agencies and state funds are not consistently subject to steering from the sector ministry. This situation negatively impacts the capacities of the portfolio ministries to lead their respective policy areas due to the lack of supervision faculties over some of the bodies operating in the ministries' policy domains. In addition, the long-standing problems related to the absence of results-oriented performance management and an obsolete, centralistic model of internal management of ministries have not been addressed.

The legislative and institutional framework is well established and is in line with the European Charter of Local Self-Government. **Municipalities' powers remain comparatively limited; inter-municipal co-operation is sporadic and unsystematic;** and consultation with municipalities before government decisions and the passing of laws has not been systematic, despite some good examples. **Many municipalities are overstuffed, and recruitment and human resource management lack transparency.** The external oversight and internal control systems are not sufficiently effective.

The Ministry of Public Administration (MPA) has acknowledged the need for improvements. Following a comprehensive analysis of the functioning of the local self-government system in 2023, a process to amend the Law on Local Self-Government to set the formal basis for reforms in this area has been initiated.

Formal **guarantees of access to public information are strong,** and transparency requirements cover a broad range of information providers, including private bodies exercising public authority and/or operating with public funds. However, the overall practice in this area is **heavily affected by the systemic disruptions of the appeal system.** The regulation of lawyers' fees incentivises a perverse but not illegal practice of mass submission of appeals intended to collect relatively high fees for representation in court proceedings against frequent administrative silence of the overwhelmed Agency for Personal Data Protection and Free Access to Information.

Basic standards of independence are secured for the Ombudsperson and the State Audit Institution (SAI). However, **the Ombudsperson can be reappointed without limit, which can compromise their capacity to exercise strict and objective oversight.** In addition, the institution's autonomy in financial management and staff recruitment is restricted because **expenditure is inadequately conditioned by the Ministry of Finance (MoF).** The level of implementation of the recommendations of oversight bodies remains low, and the parliament's support the Ombudsperson and SAI in tackling these challenges is not being effective.

Citizen and business satisfaction with handling administrative matters by public authorities is below the regional average. **The Law on Administrative Procedures, promoting principles of good administrative behaviour, is not consistently implemented across the legal system and in practice.** In particular, special regulations fail to secure the once-only principle, which requires public authorities to *ex officio* collect data from public registers and databases instead of requesting applicants to prove relevant circumstances. Monitoring of the functioning of administrative procedures is functional at the level of procedures conducted at the local level but not at the central level.

The single Administrative Court cannot secure good access to administrative justice, as the systemic problem of abusing the right to judicial review of administrative silence has not been tackled by responsible authorities through adequate legislative and procedural measures. **As a result, the backlogs in the Administrative Court have increased rapidly over the past two years. The current average waiting time for the first-instance ruling is nearly four years.**

The legislation covers all aspects of the anti-corruption policy. However, the quality of regulation in some areas generates problems in practice. This relates particularly to the system of **asset and income declarations.** While the reporting obligations cover a broad range of public officials, **the number of officials ignoring the reporting requirements is increasing.**

Overall, the existing legal framework, institutional set-up and related strategies and guidance are largely in line with the Principles of Public Administration. Implementation practice and results include gaps and inconsistencies, hindering the development of an effective accountability and oversight system in public administration.

**Figure 27. State of play in organisation, accountability and oversight by type of criterion**



Notes: The results are split. The first combines points from legislation, policy and guidance, and institutional set-up. The second aggregates points from implementation practice and results. The percentage in the centre represents the ratio of points in relation to the maximum.

## Recommendations

1. Under the policy objectives envisaged by the Law on State Administration (LSA), the Government should propose to the Parliament to transfer to the executive power the administrative bodies currently accountable to the Parliament, except for constitutional bodies and bodies for which an elevated level of independence is needed.
2. The Government should revise the list of public bodies directly accountable to it and, whenever there is no clear justification for keeping this special accountability arrangement, transfer them to the relevant portfolio ministries to ensure their adequate governance and steering.
3. The ministers should systematically empower relevant management levels through delegation of responsibility to deliver on the objectives and tasks agreed and give them financial and operational decision-making authority and accountability towards superiors and the public.
4. The Government should move forward with the planned legislative reform for improved governance at the local level and implement measures to increase the effectiveness and reliability of external oversight of local government.
5. Given the significant differences in size, conditions and capacity among municipalities, the MPA should improve policies, including support and incentives, for inter-municipal co-operation
6. The Government should propose amendments of the legislative framework for the Ombudsperson in line with international standards to ensure a single long mandate with no re-election and to guarantee full operational autonomy to manage expenditures.
7. The Parliament should strengthen the effectiveness of the mechanisms for regularly monitoring the implementation of recommendations of Ombudsperson and SAI.
8. The Ministry of Public Administration (MPA) should expand the practice of monitoring the functioning of administrative procedures to procedures conducted by the central administration in order to become more aware of possible challenges, their causes and possibilities for addressing them.
9. The Ministry of Justice, the judiciary and the Agency for Personal Data Protection and Free Access to Information should put an end to the abusive practices of lawyers that submit complaints to court only for the purpose of collecting the compensation of lawyers' fees.
10. The Agency for Prevention of Corruption (APC) and the Government should work to enhance the effectiveness of anti-corruption and integrity system, especially to ensure full compliance with the reporting obligations.

## Analysis

### Principle 13: The organisation and management of public administration foster accountability, effectiveness, and efficiency.

The legislation covers the organisational landscape of the central public administration. However, its practical application results in a number of bodies under the Parliament or directly accountable to the Government not being subject to steering from the sector ministry. In addition, performance management is weak, and decision making in ministries is highly centralised.

Indicator 13. The organisation and management of public administration foster accountability, effectiveness and efficiency		2024 indicator value	38/100
Sub-indicators		Points	
1.	Clarity and coherence of official typology of central government bodies	6.2/10	
2.	Effective mechanisms for keeping the organisation of public administration rational	3/10	
3.	Strength of basic accountability mechanisms between ministries and subordinated bodies	7/8	
4.	Strength of the accountability framework for promoting performance	1.9/15	
5.	Number of public bodies subordinated to the parliament	1/8	
6.	Autonomy of regulatory bodies according to the legislation	9/10	
7.	Effective internal organisation	2/6	
8.	Effective performance of public administration	2.3/6	
9.	Delegation of decision-making authority within ministries	4/15	
10.	Horizontal co-ordination in PAR areas	0.9/4	
11.	Use of Total Quality Management (TQM) tools	1/4	
12.	Level of focus on reducing the environmental footprint of public administration bodies	0/4 <sup>i</sup>	

Note: i = data not available or not provided.

The typology of administrative bodies established by the LSA<sup>151</sup> covers most of the institutions performing executive functions of the state. They are divided into ministries, administrative bodies and holders of public authority. The last category includes a large number of state agencies and state funds (Table 1). When regulating those state agencies and funds, the LSA positions them as bodies directly subordinated to the Government,<sup>152</sup> not to the relevant ministries. The existence of this broad and vaguely defined group of 20 public bodies enjoying special status may undermine ministerial capacities to pursue their policies because portfolio ministries are not provided with any formal steering and supervisory powers towards most of them (Table 2). In addition, some state agencies and funds are inappropriately placed under the Assembly instead of being accountable to the executive through the relevant portfolio ministries. Some state agencies, especially regulatory authorities, may require extended functional autonomy, but this should not jeopardise the ability of the relevant ministry to set the policies.

<sup>151</sup> Law on State Administration, Official Gazette Nos. 78/2018, 70/2021 and 52/2022.

<sup>152</sup> LSAAS: "...the state agency submits a report to the Government on its work", "The president and council members of the state agency are appointed and dismissed by the Government", Articles 44-45. "The state fund can have the status of a legal entity and is responsible for its work to the Government", Article 48.

The LSA was adopted in 2018, setting a deadline of 12 months to reorganise 8 state agencies and funds listed in Article 87.<sup>153</sup> Six years after entering into force, at least four of those bodies are still under the Assembly: Agency for Electronic Communications and Postal Services; National Security Agency; Energy and Water Regulatory Agency; and Fund for the Protection and Realization of Minority Rights. This creates a dysfunctional situation, depriving the ministries of key policy instruments and weakening the accountability system due to the natural difficulties of a parliament to properly set objectives and monitor the results of public agencies.

**Table 1. Number of bodies according to the official typology of state administration bodies**

Type	Number of bodies
Ministries	19
Administrative/Ministerial body	27
Holders of public authority (State agencies and funds)	20

Source: Official register of public administration bodies and institutions, <https://organi.gov.me/>.

**Table 2. Accountability of state agencies/funds**

	Number
Number of agencies/funds under the ministries	5
Number of agencies/funds under the Government	5
Number of agencies/funds under the Parliament (excluding constitutional bodies)	7
Number of agencies/funds subordinated to both Government and Parliament, to other institutions or unclear subordination	3
Total	20

Source: SIGMA elaboration, based on the information provided for the assessment and on the register of public bodies.

<sup>153</sup> Article 87, Provisions of special laws establishing: Agency for Electronic Communications and Postal Services; Agency for Medicines and Medical Devices; Agency for Peaceful Resolution of Labor Disputes; Agency for Supervision of Insurance; Agency for Protection of Competition, Pension and Disability Insurance Fund of Montenegro; Fund for the Health Insurance of Montenegro; and the Labor Fund will comply with this law within 12 months from the date of entry into force of this law.

A register of bodies falling under each category is publicly available.<sup>154</sup> For all categories, the LSA regulates their managing bodies and the obligation to adopt annual plans and annual reports. The LSA establishes detailed rules on internal organisation, governance, supervision and accountability for ministries and administrative bodies. However, in practice, the relations between ministries and subordinated bodies are not always structured around clearly defined and mutually agreed objectives and performance targets.

Functions relating to the overall management of the institutional development of public administration are not adequately performed. Whenever organisational changes are proposed on the initiative of the relevant ministry, the Ministry of Public Administration (MPA)<sup>155</sup> prepares updates to the decree regulating the responsibilities of ministries and subordination lines for the administrative bodies. However, in practice, there is no evidence that the MPA effectively ensures adequate organisational arrangements. Most recent cases of public body reorganisations, particularly the creation of the Administration for Games of Chance, demonstrate a lack of comprehensive *ex ante* assessment of the proposals for organisational changes. After just a few years of operation under one roof, the recent splitting of the tax and customs administration again into separate institutions also illustrates a lack of systemic approach to managing the organisational landscape of central public administration.

Beyond these broader issues, there are also problems at the ministerial level. Ministries often fail to take an active leadership role in two key areas: setting priorities for their subordinate bodies and holding them accountable for their performance. Ministerial steering is not properly guaranteed at the level of legislation. While the LSA requires the administrative bodies to prepare annual plans, there is no explicit requirement to agree on their content with the responsible ministries. In practice, the format of administrative bodies' annual plans and annual reports differ, but the lack of objectives and targets is a common deficit. In addition, the ministries usually don't provide structured feedback on the performance of subordinated bodies.

Internal management of the ministries is highly centralised. Almost all decision-making powers on policy-related and organisational issues are concentrated in the hands of the minister. The position of secretaries is weak. They formally supervise units responsible for support services, but most decisions in this sphere, including approvals of annual leave, staff training or business trips, require the minister's signature.

<sup>154</sup> The catalogue of bodies is available at <https://organi.gov.me/>.

<sup>155</sup> More information about the MPA is available at <https://www.gov.me/en/mju>.

**Principle 14: Responsibilities are clearly distributed between levels of government, embracing the principle of subsidiarity and local autonomy, and facilitating inter-institutional co-ordination with effective oversight mechanisms.**

The institutional framework for multi-level governance is aligned with the European Charter of Local Self-Government (ECLSG or "Charter"). This provides for a sound legislative and institutional framework. However, in practice, the central government frequently bypasses required consultation procedures; inter-municipal co-operation mechanisms are not sufficiently developed; and there is a need to modernise the oversight system, including for ensuring more prudent human resource management.

Indicator 14. Multi-level governance		2024 indicator value	68/100
Sub-indicators		Points	
1.	Legal guarantees for the establishment and functioning of local governments ensuring multi-level governance across the public administration	6/7	
2.	Ensuring political autonomy of local governments and the right to organise their administration and establish local entities	16/16	
3.	Rules and procedures for the administrative supervision of local government activities and decisions	10/16	
4.	Rules and institutional set-up for resolving conflicts of competences among levels of government	6/6	
5.	Co-ordination and co-operation are ensured between the local governments and the central government	9/12	
6.	Co-operation between local governments	8/13	
7.	Functions for which local governments assume responsibility	13.2/30	

The key factor driving changes in multi-level governance has been the ratification of the ECLSG in 2008 and the Additional Protocol to the Charter on the right to participate in the affairs of a local authority in 2010. These ratifications inspired a significant portion of the relevant legislation concerning local governments and central-local relations. The legal framework was modernised in the spirit of the Charter, introducing a new Law on Local Self-Government (LSG Law) in 2018<sup>156</sup> and a Law on the Financing of Local Self-Government in 2019.<sup>157</sup> Montenegro has not yet withdrawn its reservations regarding Articles 4.3 (Subsidiarity Principle), 4.5 (Adapting Delegated Powers to the Local Context), 6.2 (High-Quality Staff), 7.2 (Compensation for Elected Representatives), 8.2 (Expediency Control Only for Delegated Tasks), and (Administrative Supervision to Ensure Legality) and 8.3 (Proportionality in Supervision) of the Charter.

The plans to develop multi-level governance are described in the Public Administration Reform (PAR) Strategy 2022-2026<sup>158</sup> and the Strategy of Regional Development 2023-2027.<sup>159</sup> The MPA is the competent authority for local government, and the Union of Municipalities has the role of representing local governments with the central government and internationally. With 25 municipalities, the population size

<sup>156</sup> Official Gazette No. 002/18 of 10 January 2018, 034/19 of 21 June 2019, 038/20 of 25 April 2020, 050/22 of 9 May 2022, 084/22 of 1 August 2022.

<sup>157</sup> Official Gazette No. 003/19 of 15 January 2019, 086/22 of 3 August 2022, 005/24 of 24 January 2024.

<sup>158</sup> The Public Administration Reform (PAR) Strategy 2022-2026 is available at <https://www.gov.me/dokumenta/823842f4-2ffd-4a0d-936e-c1b00c669115>.

<sup>159</sup> The Strategy of Regional Development 2023-2027 is available at <https://www.gov.me/dokumenta/0c37736f-0645-4737-87c1-02b1fb39fd32>.

is generally optimal, with most municipalities having more than 10 000 inhabitants. There are, however, 5 municipalities with fewer than 5 000 inhabitants.

The reforms implemented since the ratification of the Charter and EU membership application have also been reflected in the study of the Local Autonomy Index in Europe, solicited by the European Commission (Table 3). In Montenegro, the index of local autonomy – which significantly increased – is as high as the average for EU countries.

**Table 3. Local Autonomy Index in Montenegro**

	2000	2010	2015	2020
Montenegro	15.0	24.0	22.8	22.8
EU average	22.2	22.5	22.9	22.8

Note: The maximum possible LAI score is 38.

Source: International Comparative Research on Local Autonomy, <http://local-autonomy.andreasladner.ch/>; Ladner, A. et al. (2019), *Patterns of Local Autonomy in Europe*, Palgrave, <https://doi.org/10.1007/978-3-319-95642-8>; Ladner, A., N. Keuffer and A. Bastianen (2021), *Self-rule Index for Local Authorities in the EU, Council of Europe and OECD Countries (1990-2020)*, Release 2.0, European Commission, Brussels.

The Constitution guarantees the right to local self-government in the interest of the local population, autonomy, and the status of the municipality as a legal entity, as well as autonomy in performing its duties. The Constitution does not specify municipal responsibilities. The legislation has, therefore, a wide margin of discretion. Subsidiarity is not explicitly stipulated in law, nor has it guided legislative practice in recent years. Municipalities have the right to perform, on their initiative, additional tasks according to the needs and interests of the local population. In practice, however, their ability to exercise this right is rather limited, due to a lack of resources and relatively narrow list of competences, primarily in the field of communal activities, water supply and maintenance of public space.<sup>160</sup>

Municipalities in Montenegro do not have a broad range of responsibilities compared to other European countries. Notably, local self-government does not play a significant role in spatial planning and town development, in primary healthcare and hospitals, or pre-school, primary and secondary education. A significant part of the municipalities is involved in short-term inter-municipal co-operations (IMCs) in various areas (development, environment, childcare, etc.). In any case, IMC would encourage further decentralisation of functions, but currently, there is a lack of targeted national policy.<sup>161</sup>

Legislation establishes the organisational autonomy of local governments and their right to create businesses and other legal entities.<sup>162</sup> Various special laws set obligations to establish different services (e.g. fire service, municipal police) and there are limits on the types of local government bodies that can be established, but the exact design of the organisational system is left for the discretion of each local government unit. On the other hand, the interpretation and application of these legal provisions have led to a significant number of organisational units, potentially causing excessive complexity in the operation of municipalities.<sup>163</sup>

Regarding recruiting professional staff, the law entrusts this responsibility to the municipality. The Law on Local Self-Government prescribes employment procedures which are broadly in line with the Law on Civil Servants and Employees. The current system is however short of appropriate practices for merit-based

<sup>160</sup> Ibid., p. 16.

<sup>161</sup> See MPA (2024), *Analysis of the Functioning of Local Self-Government System in Montenegro*, Podgorica, pp. 74-79; Kurian, M., P. Swianiewicz and F. Teles (2024), "Inter-municipal co-operation in the Western Balkans", *SIGMA Papers*, No. 70, pp. 11, 47, 57-58, 64-65, 80-82, OECD Publishing, Paris, <https://doi.org/10.1787/a78a01e6-en>. There is a general legal framework for IMCs (LSG Law, Article 15 and Articles 186-192).

<sup>162</sup> LSG Law, Articles 21, 29, 70, 190.

<sup>163</sup> Congress of Local and Regional Authorities of the Council of Europe (CLRAE) (2024), *Monitoring of the Application of the European Charter of Local Self-Government in Montenegro*, Monitoring Committee, Strasbourg, p. 19.



employment based on transparency and openness.<sup>164</sup> There has been a significant increase in staff in recent years, signalling excessive personnel employment and related financial burden. Personnel plans have been gradually adopted in most municipalities since 2022. The legal framework for human resources at the local level is governed by several laws, suggesting room for consolidation and harmonisation.

The president of the municipality is responsible for internal control and supervises bodies and services.<sup>165</sup> In most municipalities, internal supervision is carried out annually under general provisions, while only three municipalities adopted and implemented the prescribed internal procedures for supervision.<sup>166</sup> Local administrations frequently fail to cope with the task of administrative supervision over companies and other entities founded by municipalities.<sup>167</sup> The MPA conducts external supervision, and administrative inspection oversees employment relationships.

If a municipality fails to convene for more than six months, does not implement court decisions, or neglects its legal obligations, the Government, after issuing a relevant warning, can dissolve the municipal assembly. In such cases, the assembly is replaced by a board of trustees appointed by the Government until a new assembly is formed. In 2022, due to the failure to hold local council sessions, the Government established boards of trustees in two municipalities.<sup>168</sup> Local governments have the right to challenge such decisions at the Constitutional Court, which also has the power to resolve conflicts of responsibilities between different levels of government.

Co-operation between the central administration and local self-governments is facilitated by legislation that mandates prior consultation with municipalities and local government associations when measures or legislation affecting their interests are prepared. However, consultation has not taken place in many cases in recent years.<sup>169</sup> A characteristic case was the “Europe Now” programme, which provided, without prior consultation with municipalities, the exemption of salaries under EUR 700 from income tax and a salary increase for all civil servants, including municipality employees. The Parliament allocated EUR 50 million to partially compensate for the heavy burden on municipalities without consulting them.<sup>170</sup>

Legislation ensures the political autonomy of municipalities through the direct election of their assemblies and the election of the presidents of municipalities by the assemblies. Municipal elections are not simultaneously held, which is unusual for a unitary country. Several instruments of direct citizen participation (assemblies, initiatives, referenda, etc.) are provided in law and regulated in relevant municipal statutes (Articles 157-163). Though citizen participation is not frequent, some good practices have emerged. They are not sufficiently promoted among municipalities, however.<sup>171</sup>

The results of the SIGMA Survey of Citizens in the Western Balkans 2024, show that 45% of Montenegrins who responded expressed that they trust their local government, a higher percentage than the regional average (39%) (Figure 29).

<sup>164</sup> MPA (2024), *Analysis of the Functioning of Local Self-Government System in Montenegro*, Podgorica, p. 69.

<sup>165</sup> LSG Law, Articles 58 and 69.

<sup>166</sup> MPA (2024), *Analysis of the Functioning of Local Self-Government System in Montenegro*, Podgorica, p. 7.

<sup>167</sup> *Ibid.*, pp. 26, 80.

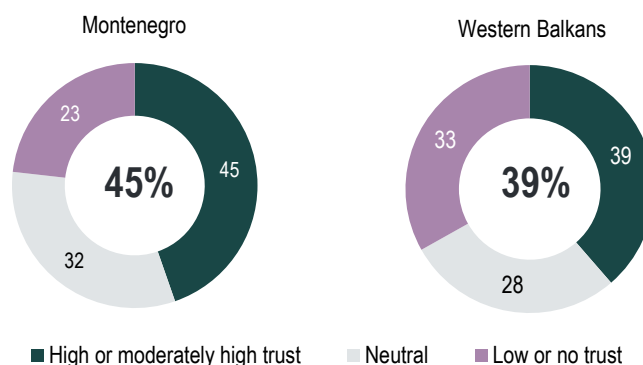
<sup>168</sup> *Ibid.*, p. 15.

<sup>169</sup> *Ibid.*, p. 37; Congress of Local and Regional Authorities of the Council of Europe (CLRAE) (2024), *Monitoring of the Application of the European Charter of Local Self-Government in Montenegro*, Monitoring Committee, Strasbourg, p. 18.

<sup>170</sup> *Ibid.*, p. 57; Congress of Local and Regional Authorities of the Council of Europe (CLRAE) (2024), *Monitoring of the Application of the European Charter of Local Self-Government in Montenegro*, Monitoring Committee, Strasbourg, p. 27.

<sup>171</sup> Congress of Local and Regional Authorities of the Council of Europe (CLRAE) (2024), *Monitoring of the Application of the European Charter of Local Self-Government in Montenegro*, Monitoring Committee, Strasbourg, p. 14.

**Figure 28. Citizen trust in local governments**



Note: Percentage of valid responses to survey question:

"How much trust do you have in the local government? Using a 5-point scale where 1 means you don't trust it at all and 5 means you completely trust it". 1-2 = Low or no trust, 3 = Neutral, 4-5 = High or moderately high trust.

The percentage in the middle is the share of respondents who answered "high or moderately high trust".

Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024.

### Principle 15: Public administration is transparent and open.

The legislation ensures a good standard of access to public information and the re-use of public sector data. However, a systemic problem has emerged: some lawyers are exploiting procedural rules, which has effectively paralysed the bodies responsible for handling the appeals.

Indicator 15. The public administration is transparent and open		2024 indicator value	57/100
Sub-indicators		Points	
1.	Strategic and institutional set-up for transparency	6/10	
2.	Individuals and legal persons who have the legal right to access public information	6/6	
3.	Definition of public information	6/6	
4.	Easiness of requesting access to public information	4/15	
5.	Effective remedies for denial to access public information	4/15	
6.	Effective supervisory authority of the right to access public information	4/9	
7.	Legislation about preservation and management of documents and data keeping	8/10	
8.	Open Data Portal and re-use of public information	12/15	
9.	Proactivity in disclosure of information and data by state administration bodies	4.8/10	
10.	Perceived government transparency of public information by the population and businesses	2/4	

Note: \*\*Data not available.

A modern legislative framework aligned with the Tromsø Convention<sup>172</sup> ensures a good formal standard of access to public information and re-use of public sector data. The Law on Free Access to Information<sup>173</sup> (LFAI) imposes transparency obligations on a wide range of institutions, including public authorities and private entities that provide public services or receive public funds. The deadlines for processing public information requests are adequately short, with possible extensions in cases of classified data, large volumes of information or a need to do an extensive search.

The Agency for Personal Data Protection and Free Access to Information<sup>174</sup> (hereafter, “the Agency”) has a broad mandate, typical of information commissioners, including considering appeals against refusal of access to information and administrative silence; conducting inspections of compliance with transparency obligations; and collecting data on administrative practices related to handling public information requests.

However, systemic challenges have been observed in the Agency’s primary domain, i.e. operating as an appeals body in public information matters and in addressing systemic challenges, such as the lack of proactive publication of information by public authorities. The number of complaints received by the Agency has increased over the past three years by nearly 200% (Figure 29). This rapid increase results from the peculiar practices of some applicants, exposing serious procedural shortcomings. The Agency is obliged by the LFAI to resolve appeals within 15 days. Failure to meet this deadline activates the applicants’ right to challenge the administrative silence in the Administrative Court. Some applicants eagerly use this right, which in 2023 resulted in over 8 000 lawsuits lodged with the Administrative Court, mainly concerning failure to resolve complaints within the deadline.

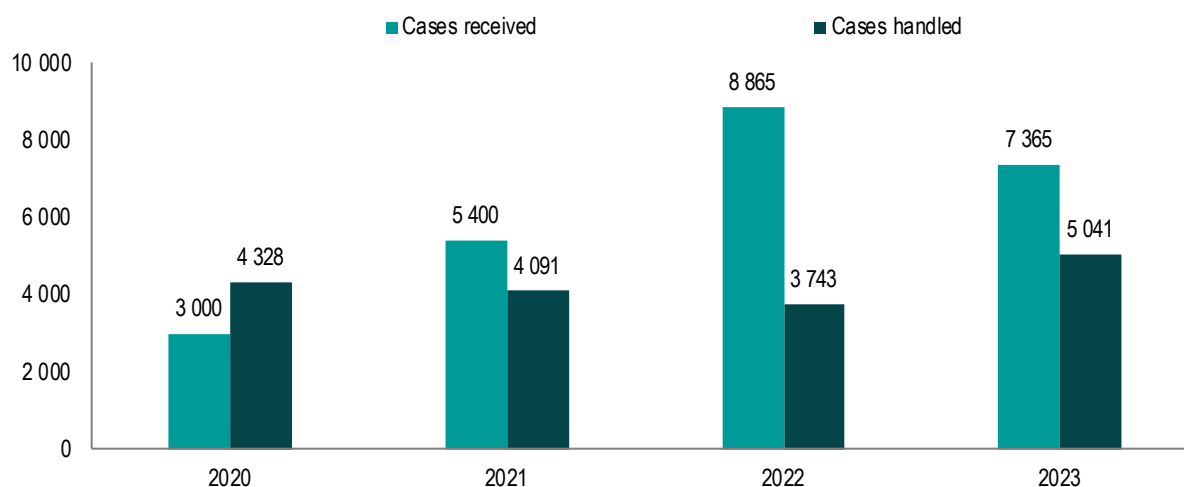
Evidence suggests that many complaints about information access are not driven by genuine transparency concerns but by some legal professionals exploiting the system for financial gain. Their strategy involves overwhelming information providers with numerous requests, waiting for inevitable delays, and then filing appeals and court cases against the resulting “silence” of information holders and the Agency. This allows them to collect substantial legal fees. The abuse of procedural guarantees has created a perverse incentive structure, leading to widespread misuse of legal remedies. Despite awareness of this issue among key decision makers, including the Government and Parliament, no effective measures have been taken to address the problem.

<sup>172</sup> The Council of Europe Convention on Access to Official Documents of 18 June 2009 is available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/205>.

<sup>173</sup> Official Gazette Nos. 44/2012 and 30/2017.

<sup>174</sup> More information on the Agency for Personal Data Protection and Free Access to Information is available at <https://www.azlp.me/en/home>.

**Figure 29. Handling complaints by the Agency for personal data protection and free access to information, 2020-2023**



Source: Annual reports of the Agency for Personal Data Protection and Free Access to Information.

Furthermore, enforcing compliance with public bodies' transparency obligations is weak. In 2023, the Agency did not submit any requests to initiate misdemeanour proceedings for violation of the right to access information.

In addition, the number of inspections related to compliance with proactive transparency requirements was half that in 2021. A SIGMA review of ministry websites demonstrates considerable room for improvement in this field, considering that the majority of ministries fail to publish up-to-date planning and reporting documents or budgetary data. This aligns with citizen and business perceptions of the limited willingness of the public administration to share information. According to the SIGMA Survey of Citizens on public administration in the Western Balkans 2024, conducted in March-April 2024, 50% of citizens and 60% of businesses think that the Government sometimes intentionally withholds important information from the public that could be safely released.

### Principle 16: The parliament, ombudsperson and supreme audit institution effectively scrutinise public administration.

The Ombudsperson and the SAI enjoy basic guarantees of independence. However, some potential threats to the independence and effectiveness of the Ombudsperson have not been addressed. The effectiveness of those oversight institutions is hindered by the continuously low level of implementation of recommendations by the Ombudsperson and SAI.

Indicator 16. Effectiveness of scrutiny of public authorities by independent oversight institutions		2024 indicator value	65/100
Sub-indicators		Points	
1.	Parliamentary oversight of the government	5.9/9	
2.	Parliamentary support to the ombudsperson and the supreme audit institution (SAI)	6/12	
3.	Independence of the ombudsperson, capacities, and public trust	4.9/13	
4.	Requirements for the person appointed to the ombudsperson position	3/6	
5.	Mandate and powers of the ombudsperson	8/8	
6.	Implementation of ombudsperson recommendations	6.8/13	
7.	Independence of the state audit institution (SAI)	11.1/12	
8.	Capacities of the supreme audit institution (SAI) and public trust	6/9	
9.	Mandate and powers of the supreme audit institution (SAI)	7/7	
10.	Implementation of supreme audit institution (SAI) recommendations	6.4/11	

The Parliament's Rules of Procedures enable the Parliament to perform its oversight function effectively. These rules allow for debate, scrutiny and amendment of government policies and programmes. The Assembly produces reports on the implementation of major laws and policies. However, the medium-term budgetary framework is not presented to the Parliament for review.

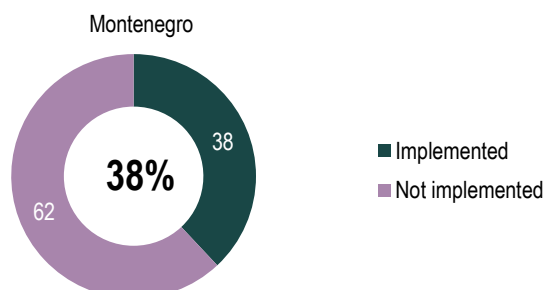
Both the Protector of Human Rights and Freedoms (the Ombudsperson) and SAI enjoy basic guarantees of independence in performing their mission of overseeing the public administration. SAI's status is in line with international standards for supreme audit institutions. In the case of the Ombudsperson, however, there are some shortcomings. The possibility of being reappointed, not limited by the Constitution or the law,<sup>175</sup> could compromise their capacity to exercise strict and objective oversight. In addition, while the budget of the Ombudsperson is only adopted by the Parliament, the autonomy of the Institution is restricted because expenditure is conditioned by monthly appropriations provided by the MoF and the recruitment of staff is conditioned to the ministerial certification that funds are available. The 2016 evaluation report of the Global Alliance of National Human Rights Institutions (GANHRI),<sup>176</sup> accredited the Montenegrin Ombudsperson institution with "B" status, indicating only partial compliance with the Paris principles. On 31 July, after the cut-off date for this assessment, the Parliament adopted a conclusion showing willingness

<sup>175</sup> The Constitution and law do not mention any limit to the reappointment of the protector by single majority of the Parliament.

<sup>176</sup> The 2016 evaluation report of the Global Alliance of National Human Rights Institutions is available at [https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA\\_FINAL\\_REPORT\\_-\\_MAY\\_2016-English.pdf](https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_FINAL_REPORT_-_MAY_2016-English.pdf).

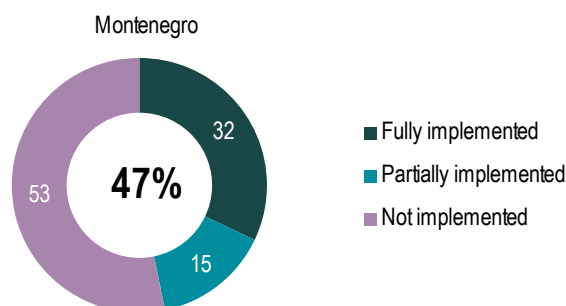
to amend legislation to allow the Ombudsperson to reinforce its independence and improve its GANHRI status.<sup>177</sup>

**Figure 30. Implementation of Ombudsperson recommendations (2023)**



Note: In 2023, the Ombudsperson issued 455 recommendations, of which 173 recommendations were implemented (38%).  
Source: SIGMA elaboration, based on data provided by the Ombudsperson.

**Figure 31. Implementation of SAI recommendations (2022)**



Notes: In 2022, the SAI published 36 reports containing 883 recommendations. The status of implementation of 720 recommendations has been verified: 283 recommendations have been implemented (32%), and 130 recommendations have been partially implemented (15%); therefore, full or partial implementation has been verified in 47% of cases.  
Source: SIGMA elaboration, based on data provided by the SAI.

As shown in Figure 30 and Figure 31, in the last years the levels of complete or partial implementation of recommendations of oversight institutions remains low, between 38% and 47%. The parliamentary Committee on Human Rights and Freedoms<sup>178</sup> is not explicitly tasked with co-operating with the Ombudsperson but hears Ombudsperson reports and regularly collaborates with it.<sup>179</sup> The Parliament has been monitoring the implementation of Ombudsperson recommendations, but with no significant

<sup>177</sup> “The Parliament expresses its expectation that, during this year, there will be amendments to the legislative framework which, in accordance with the recommendation of international partners, should contribute to strengthening the independence of the Ombudsperson office, in line with the Paris principles, in order to improve its status and ensure that the Ombudsperson office receives ‘A’ status from the GANHRI”.

<sup>178</sup> More information on the Committee on Human Rights and Freedoms is available at <https://www.skupstina.me/en/working-bodies/committee-on-human-rights-and-freedoms>.

<sup>179</sup> i.e. by inviting the Ombudsperson to participate in meetings, visits and other activities.

improvements. The Ombudsperson's annual report for 2022 was presented at the legislature's plenary session in December 2023. During this session, the Parliament issued different statements urging the public bodies to ensure the implementation of Ombudsperson recommendations and to enhance the responsiveness to them.<sup>180</sup> On 31 July 2024, after the cut-off date for the assessment, the Parliament adopted a similar conclusion.

The relatively low rate of implementation of recommendations in the case of the Ombudsperson contributes to poor perception of its ability to effectively scrutinise the Government. Results of the SIGMA Survey show that 63% of citizens declared that they are familiar with the Ombudsperson. Of the 63% only 40% of citizens believe that it is a body capable of holding the public administration accountable. Therefore, only one out of four citizens in Montenegro know the Ombudsperson and consider the institution effective. Perceived level of independence is a bit higher, with 48% of those citizens who know the Ombudsperson agreeing that it is independent of political influence.

### Principle 17: The right to good administration is upheld through administrative procedure, judicial review and public liability.

While the Law on Administrative Procedures is compatible with the standards of good administration, practice is inconsistent and specific novel elements, like the once-only principle, are not applied. Monitoring of efficiency and quality of handling administrative matters by the public authority is at an early stage of development.

Indicator 17.1. Due process and good administrative behaviour when conducting administrative procedures and applying public authority		2024 indicator value	46/100
Sub-indicators		Points	
1.	Due process in the legal framework regulating administrative procedures	16.3/30	
2.	Timeliness of administrative procedures	6.4/20	
3.	Public perception of the lawfulness and impartiality of administrative procedures	2.1/6	
4.	Business perception of the consistency and impartiality of conducting administrative procedures	1.4/6	
5.	Functioning of administrative appeal	5.6/10	
6.	Monitoring the effectiveness of administrative procedures	10/18	
7.	Legal framework and application of the public liability regime	4/10	

The general legal framework for handling individual administrative matters is well-established. The Law on Administrative Procedures<sup>181</sup> (LAP), in force since 2017, secures basic guarantees of the right to good administration, including the right of a party to access files of proceedings, the right to communicate via electronic means, the right to be heard prior to final decision and the obligation of authorities to justify decisions. The LAP also enshrines the once-only principle, stipulating that when deciding in an administrative procedure, a public authority *ex officio* inspects, obtains and processes data from official records and registers maintained by that authority or other bodies unless access to such data is restricted in accordance with the law.<sup>182</sup> However, special laws regulating various proceedings are not aligned with this principle. For example, when applying for a construction permit, a party still has to deliver proof of

<sup>180</sup> Conclusion adopted by the Parliament of Montenegro on 26 December 2023, published in the Official Gazette of Montenegro, No. 120/23.

<sup>181</sup> Official Gazette No. 54/16.

<sup>182</sup> Law on Administrative Procedures, Article 13.

ownership of the land,<sup>183</sup> which could be retrieved by the authority from the relevant registry maintained by the public administration. Further, according to the World Justice Project Rule of Law Index, the perception of legal professionals of the application of due process in administrative proceedings is low.<sup>184</sup>

Basic rules for the functioning of the public liability regime are in place. Bodies exercising public authority are subject to liability for individual acts and actions, and the right to fair compensation is guaranteed.<sup>185</sup> However, no evidence was provided of the system's actual functioning, e.g. data on court cases or actual compensation payments to affected parties.

Mechanisms for monitoring administrative proceedings in other elements are also at an early stage of development. The MPA is required to prepare annual reports on the state of handling administrative matters.<sup>186</sup> The last available report provides data for 2022, published in December 2023.<sup>187</sup> The report offers some useful insights into the timeliness and quality of decision making (measured by the rate of repeals of the decisions by higher authorities), but it concentrates solely on procedures conducted by the local self-government units. Aggregated data on proceedings carried out by the central bodies (ministries and other administrative authorities) are not comprehensively available. As a consequence, data on the timeliness of procedures and quality are limited.

The relatively good legislative framework does not correspond with a positive assessment of the performance of public authorities by administrative proceedings participants. Both citizen and business satisfaction with impartiality and lawfulness in handling administrative matters by public authorities is below the regional average. Further, only about one-third of the businesses that responded to the SIGMA Survey of Businesses, consider that public administration bodies follow a predictable and consistent approach when handling individual matters.<sup>188</sup> (Figure 32).

<sup>183</sup> Rulebook on Application Forms, Applications and Declarations in the Building Construction Process, Official Gazette Nos. 70/17, 60/18, 47/19, 102/20.

<sup>184</sup> Refer to <https://worldjusticeproject.org/rule-of-law-index/country/2023/Montenegro/Regulatory%20Enforcement/>, Factor 6.4. Due Process is Respected in Administrative Proceedings.

<sup>185</sup> Law on Obligations, Articles 149 and 166.

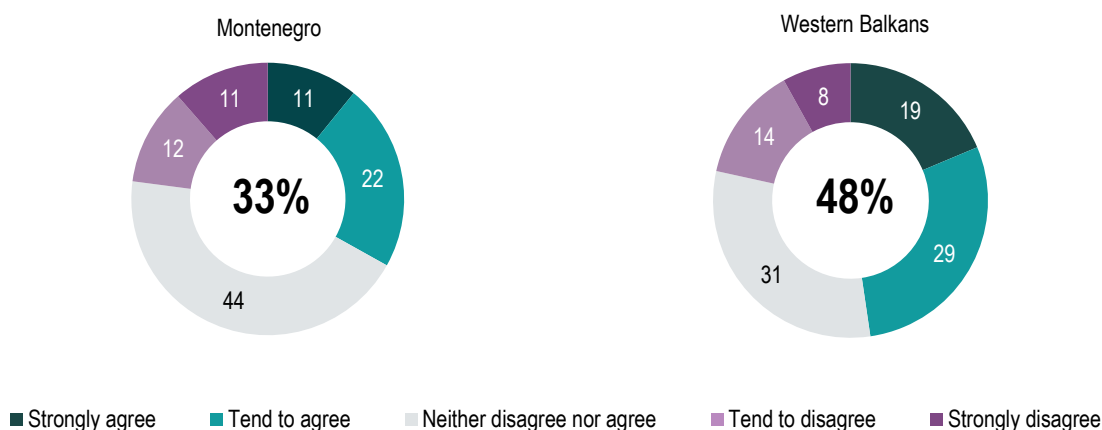
<sup>186</sup> Law on Administrative Procedures, Article 159.

<sup>187</sup> MPA (2023), *Report on the Situation in Administrative Matters for the Year 2022*, with reference to the year 2021, December.

<sup>188</sup> SIGMA Survey of Businesses on public administration in the Western Balkans 2024. Some 22.3% of respondents answered "tend to agree", and 10.8% answered "strongly agree" to the question: "The public administration's interpretations of the laws and regulations affecting your company are consistent and predictable." Data gathered from respondents to the.



**Figure 32. Business perception of the predictability of laws and regulations, 2024**



Note: Percentage of valid responses to the question: "To what extent do you agree or disagree with the following statement?" "The public administration's interpretations of the laws and regulations affecting your company are consistent and predictable". The percentage in the middle is the share of the respondents who answered "strongly agree" or "tend to agree".

Source: SIGMA Survey of Businesses on public administration in the Western Balkans 2024.

### **Effective and fair handling of administrative judicial disputes**

Despite a good procedural framework regulating judicial administrative proceedings, access to administrative justice is seriously hindered by the rapid increase in the Administrative Court's backlog. The average waiting time for a first-instance ruling is nearly four years. The responsible authorities did not undertake measures to tackle procedural flaws that led to this problem.

Indicator 17.2. Effective and fair handling of administrative judicial disputes		2024 indicator value	43/100
Sub-indicators		Points	
1.	Access to independent administrative justice	13/15	
2.	Perceived independence of the judicial system by the population (%)	2.1/10	
3.	Perceived trust in the judiciary by the population (%)	2.9/10	
4.	Functioning of administrative justice	25/35	
5.	Clearance rate in administrative courts (%)	0/10	
6.	Calculated disposition time of administrative cases	0/20	

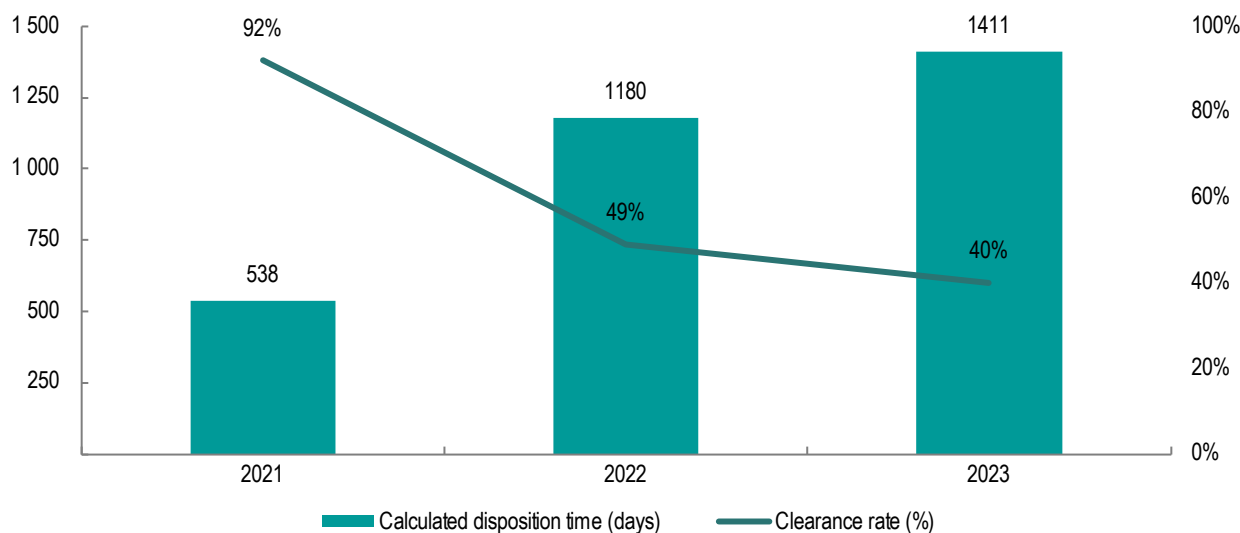
Formal guarantees of judicial review of administrative acts and omissions are in place.<sup>189</sup> Court fees do not constitute an obstacle in access to administrative justice; the standard fee of EUR 10 is below 1% of the average salary. The rulings of the single Administrative Court of first instance can be challenged in the Supreme Court in a broad range of cases, though not by the public authorities. This legal doctrine unnecessarily limits public authorities' access to the most authoritative court instance, which would be able to bring finality to a legal dispute on a matter.

An alarming situation in the Administrative Court significantly obstructs access to administrative justice. The inflow of new cases nearly tripled between 2021 and 2023. The Administrative Court managed to increase the number of cases handled, but it is still not capable of disposing of even half of the incoming

<sup>189</sup> Law on Administrative Disputes, Official Gazette No. 56/14.

cases (only 40% in 2023), which results in backlogs piling up rapidly. Considering the Court's capacities, it would need about four years (1 411 days) without any new cases just to dispose of the current backlog.

**Figure 33. Basic parameters of efficiency in handling administrative matters in the first instance, 2021-2023**



Source: Annual reports of the Judicial Council.

The main reason behind this dramatic situation is clear. About two-thirds of the cases are based on complaints against administrative silence. Among them, the majority relate to the Agency for Personal Data Protection and Access to Information. Problems generated by the abusive practices of some legal professionals in cases relating to access to public information (described under Principle 15) significantly affect the overall performance of the administrative justice system and accessibility of judicial review for citizens pursuing their legitimate rights and interests. The behaviour of legal professionals is incentivised by the rigid system of lawyers' fees, which establishes a fixed fee for lawyers providing legal representation in administrative disputes regardless of the case's complexity or actual working hours spent. As a consequence, lawyers produce easy complaints (e.g. complaints against administrative silence) to collect compensation for lawyers' fees after the complaint is upheld by the court. Consequently, they are abusing their right to access justice at the expense of all other complainants and causing significant costs for the State budget.<sup>190</sup> No adequate response from the decision makers governing the judicial system has been devised or implemented so far.

In addition to problems resulting from the artificially inflated influx of new cases, judicial performance is further hindered by procedural solutions. Most of the cases have to be handled by the panels of three judges, which, particularly in simple cases (like deciding on administrative silence), creates an unnecessary burden. Moreover, in about half of the cases, public hearings are held. While in some complex matters, they might contribute to clarifying essential circumstances of a case, most cases (especially relating to administrative silence) could be handled properly with analysis of written evidence only. The large share of cases where hearings are held appeared to be artificially stimulated by the procedural rule stipulating that only in cases where a public hearing has been held can the costs of the procedure be compensated to the plaintiff. This incentivised the parties to request a hearing. This rule was declared unconstitutional in December 2023, which can potentially reduce the number of cases where hearings are held.

<sup>190</sup> There is no comprehensive information about the total costs available, but according to the Agency for Personal Data Protection and Free Access to Information, their costs (as of end 2023) amounted to EUR 1.2 million.

## Principle 18: A coherent and comprehensive public sector integrity system minimises the risks of corruption.

Some gaps affect the strength of the anti-corruption and integrity system. In particular, the asset and income declaration system is not effective, and an increasing number of officials are not fulfilling their obligations to declare.

Indicator 18. Anti-corruption and public integrity		2024 indicator value	54/100
Sub-indicators		Points	
1.	Strategic framework for public integrity	0/10	
2.	Comprehensiveness of corruption offences and sanctions	10/10	
3.	Communication and enforcement of rules and values for ethical conduct of public officials	7.8/8	
4.	Protection of whistleblowers and open organisational culture	6.7/10	
5.	Avoidance and management of conflict-of-interest situations and unjustifiable wealth	11/15	
6.	Transparency and integrity of lobbying activities	7/10	
7.	Effectiveness of integrity risk management and control systems	4.6/10	
8.	Fairness and timeliness of handling integrity violations	3/6 <sup>i</sup>	
9.	Interagency collaboration and public communication	0/7 <sup>i</sup>	
10.	Experience with bribery in the public sector	2/10	
11.	Public trust in the civil service	1.4/4	

Note: i = data not available or not provided.

After a decade of using the Action Plan for Chapter 23<sup>191</sup> as the strategic framework for public integrity, the Anti-corruption Strategy (2024-2028) was adopted in June 2024.<sup>192</sup> The Criminal Code<sup>193</sup> covers all corruption offences established in the United Nations Convention Against Corruption. Sanctions are also established for violations of the statutory rules on incompatibilities between public functions and private activities, rules regulating conflict-of-interest situations, and restrictions on post-employment activities of former public officials.

There is a Code of Ethics for Civil Servants and State Employees<sup>194</sup> in place, enshrining general principles of conduct in the performance of public functions. The Code of Ethics puts particular emphasis on the standards of behaviour towards citizens, including the principles of equal treatment and respect to uphold the dignity of persons contacting the public administration. Violations of the rules recognised by the Code of Ethics constitute grounds for disciplinary liability.

<sup>191</sup> The Action Plan for Chapter 23 covers the judiciary, the fight against corruption and fundamental rights; more information is available at [https://www.unodc.org/documents/corruption/WG-Prevention/Art\\_5\\_Preventive\\_anti-corruption\\_policies\\_and\\_practices/Montenegro.pdf](https://www.unodc.org/documents/corruption/WG-Prevention/Art_5_Preventive_anti-corruption_policies_and_practices/Montenegro.pdf).

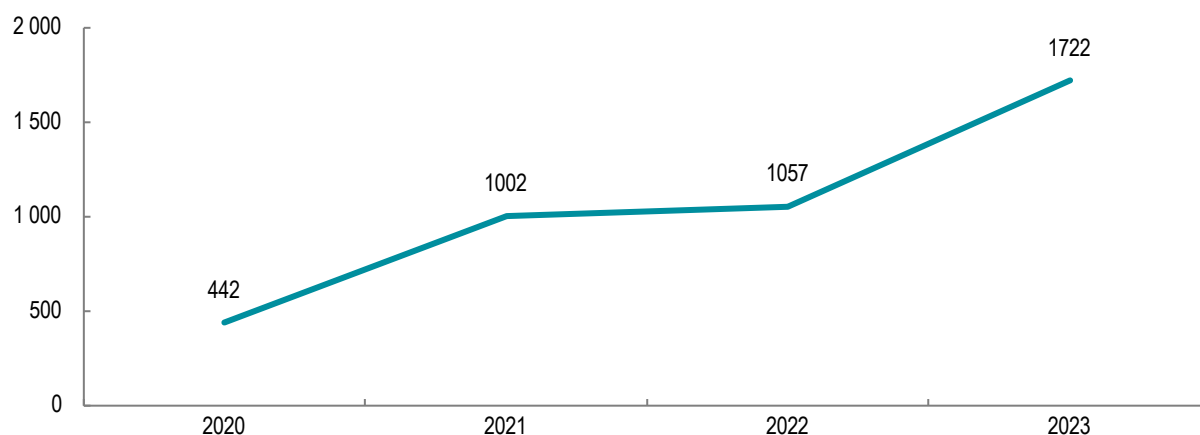
<sup>192</sup> More information is available at <https://www.gov.me/en/article/press-release-from-the-second-session-of-the-national-anti-corruption-council>.

<sup>193</sup> Criminal Code (Official Gazette No. 70/2003, 13/2004, 47/2006 and Official Gazette No. 40/2008, 25/2010, 32/2011, 64/2011, 42/2015, 58/2015, 44/2017, 49/2018 and 3/2020)

<sup>194</sup> Official Gazette No. 50/2018.

A system for asset and income declaration is in place. A wide range of public officials is required to report to the APC<sup>195</sup> about their material status upon entry into office, annually and upon termination of their mandates. However, the effectiveness of the system is questionable, as there is a rapidly increasing number of violations of the rules on reporting assets and income. The misdemeanour cases initiated by the APC increased four times from 2020 (Figure 34), and the vast majority of them are related to non-submission of asset declarations. Failure to submit a declaration may result in a financial sanction of up to EUR 2 000.<sup>196</sup> In addition, when verifying asset declarations, the APC may access bank data only upon authorisation from the public official.

**Figure 34. Number of initiated misdemeanour proceedings in income and asset verification, 2020-2023**



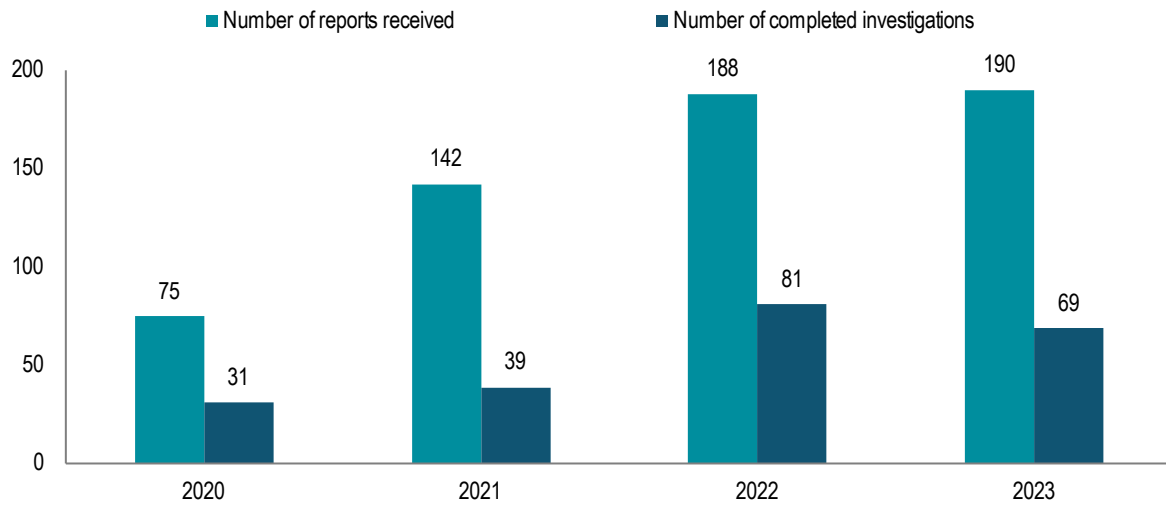
Source: Annual reports of the APC.

There is an established system for reporting irregularities in the functioning of public administration bodies. Whistleblowers are free to choose between internal and external reporting channels. Whistleblower reports can be submitted in writing, orally on the record, by mail or electronically. However, no legal safeguards are in place to protect whistleblowers from retaliatory actions. The APC is competent to receive external whistleblower reports. In practice, there is an increasing interest in submitting whistleblowers' reports to the APC. However, the Agency can only process a small percentage (36% in 2023) of the new whistleblower reports, and the backlog of pending investigations is growing (Figure 35).

<sup>195</sup> Information about the Agency for Prevention of Corruption is available at <https://antikorupcija.me/en/>.

<sup>196</sup> Law on Prevention of Corruption, Official Gazette Nos. 53/2014, 42/2017 and 73/2023, Article 103.

**Figure 35. Number of new whistleblower reports and completed investigations, 2020-2023**



Source: Annual reports of the APC.

The regulation of lobbying activities is also flawed.<sup>197</sup> While the law established a publicly available register of lobbyists,<sup>198</sup> it falls short in two key areas: it doesn't provide specifics about lobbyists' areas of interest, particularly which pieces of legislation they target, and no proceedings have been conducted to investigate potential violations of lobbying rules. This raises questions about the effectiveness of oversight in this field.

<sup>197</sup> Law on Lobbying, Official Gazette No. 52/2014.

<sup>198</sup> More information is available at <https://portal.antikorupcija.me:9343/acamPublic/lobistasFizicko.htm>.



## Service delivery and digitalisation

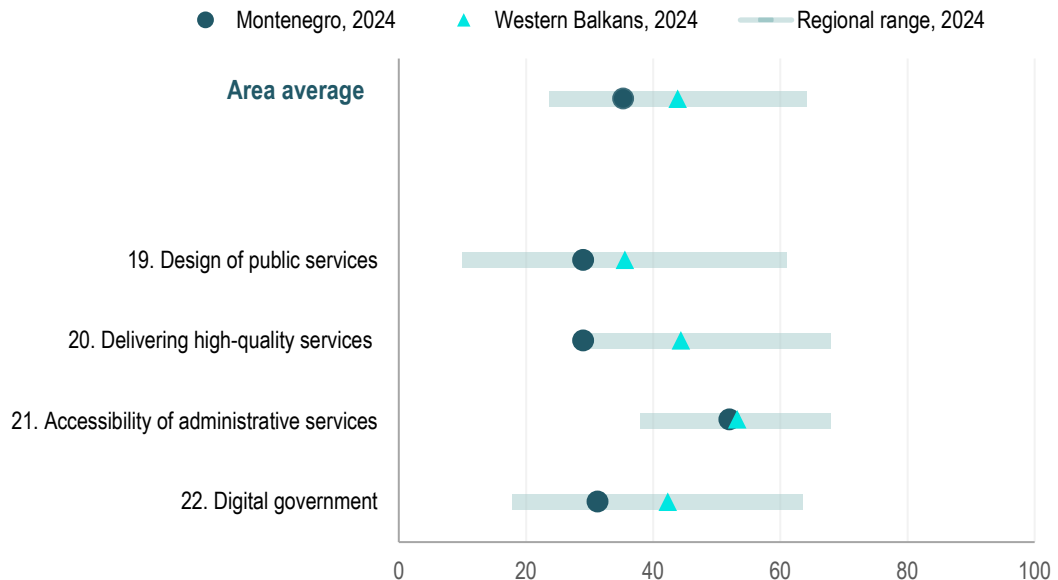
The public administration places **users at the centre** and delivers high-quality and easily **accessible services** online and offline to all people and businesses. Digitalisation enables data-driven decisions, effective and efficient processes.

### The Principles of Public Administration

- Principle 19** Users are at the centre in design and delivery of administrative services.
- Principle 20** The public administration delivers streamlined and high-quality services.
- Principle 21** Administrative services are easily accessible online and offline, taking into account different needs, choices and constraints.
- Principle 22** Digitalisation enables data-driven decisions and effective, efficient and responsive policies, services and processes in the whole of government.

## Summary and recommendations

Figure 36. The overall indicator values in the service delivery and digitalisation area



Notes: The area average is a simple average of the Principles within the area. The Western Balkan average is calculated as a simple average of all administrations. Indicator 22. Digital government is the weighted average of 22.1. Digital government readiness and maturity (75%) and 22.2. Digital government tools (25%).

**The overall quality of public service delivery has not improved in recent years.** The strategic documents to develop and modernise the system of public services are now in place, but their implementation has not yet brought tangible benefits. General satisfaction rates of citizens and businesses regarding public service delivery are below the regional average (Figure 37). Digitalisation of public services is modest, particularly in the case of services offered to individuals, and services in general remain bureaucratic. User-centricity is limited to very limited examples.

The Government has recently adopted three relevant medium-term strategic documents to improve service delivery and digitalisation. The Public Administration Reform (PAR) Strategy 2022-2026 aims to enhance service quality and digital access, increase the efficiency of administrative proceedings and increase the interoperability of government information systems. The Digital Transformation Strategy 2022-2026 addresses the advancement of government information and communication technology (ICT) infrastructure and digital enablers; as such, it is significant for both in-person and digital services. The Strategy for the Protection of Persons with Disabilities from Discrimination and the Promotion of Equality 2022-2027 addresses accessibility issues, focussing on persons with disabilities.

Co-ordination of service delivery and digital transformation initiatives remains within the Ministry of Public Administration (MPA). In collaboration with other ministries, the MPA has embarked on an important initiative **to catalogue administrative procedures for citizens and businesses**. The public *Guide of Administrative Procedures of the Government of Montenegro* is expected by the end of 2024, and it promises to provide a comprehensive and uniform information source for service seekers.

However, central leadership in designing, simplifying, monitoring, and evaluating the services of other ministries is weak. **Institutions are not encouraged or incentivised to develop service standards, and there is no comprehensive reporting system on service performance.**

The Law on Administrative Procedure (LAP) and the Law on Electronic Government create a sound framework for user-centric service delivery. However, **many user-centric practices still need to be achieved, such as designing services based on users' needs, focusing on users' entire life**

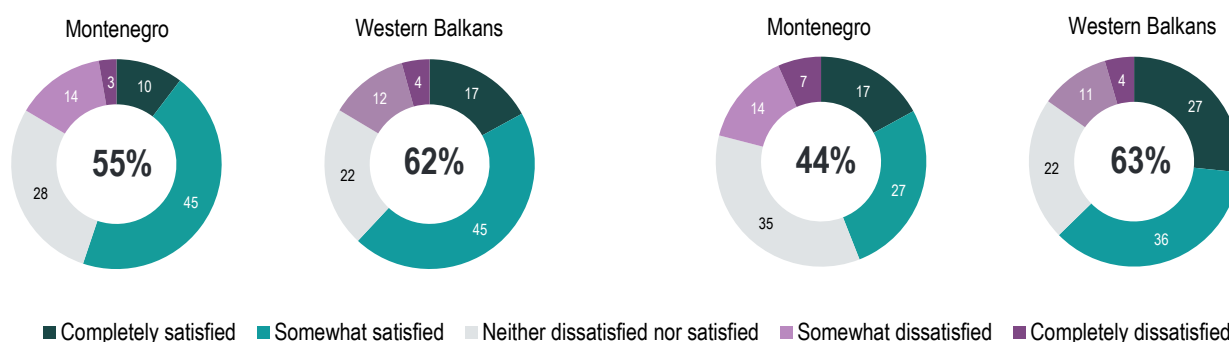
**situations** and integrating procedures into more streamlined experiences. Accessibility standards are ensured in legislation. However, there is a lack of more systematic and comprehensive consideration of diverse user groups to encompass issues such as multi-channel availability, clear and simple communication, and regular review of physical and digital barriers. Also, the principle of requesting data and documents only once is put in place in the horizontal legislation but not systematically applied in practice as the standard procedure by public service providers.

For digital government, the context of the major cyber security crisis in 2023 stalled some of the improvements in digital services, caused loss and damage to a substantial amount of data relevant to various databases and deteriorated trust in public ICT infrastructure. Nevertheless, the recently renewed policy plans, in particular the Digital Transformation Strategy 2022-2026, aim to achieve increased coverage and modernisation of ICT infrastructure, development and improvement of digital skills, raising the awareness of citizens and businesses about the importance of digital development and improving the quality, quantity and use of e-services.

However, several challenges remain, particularly in consolidating digital services into a single e-government portal and enhancing interoperability and data exchange among institutions. There is inadequate planning and a lack of effective collection of key data to monitor and incentivise public institutions in improving digitalisation.

Public and business perceptions about the quality of administrative services are mixed. In general, close to 50% of citizens and close to 40% of businesses are somewhat or completely satisfied with the services they receive. Nevertheless, the satisfaction rate in Montenegro is lower than the Western Balkan average (Figure 37). Businesses are overall less satisfied with all other examined aspects of service provision.

**Figure 37. Citizen and business general satisfaction with administrative services**



Notes: Percentage of valid responses to the question: "In general, how satisfied or dissatisfied were you with the administrative services in Montenegro, including all public administrative services you have been in contact with?" The percentage in the middle is the share of the respondents who answered "completely satisfied" or "somewhat satisfied".

Source: SIGMA Surveys of Citizens and Businesses on public administration in the Western Balkans 2024.

Overall, the existing legal framework, institutional set-up and related strategies and guidance for public service delivery and digitalisation are only moderately in line with the Principles of Public Administration. Criteria related to implementation practice and results signal significant weaknesses and gaps.



**Figure 38. State of play in service delivery and digitalisation by type of criterion**



Notes: The results are split. The first combines points from legislation, policy and guidance, and institutional set-up. The second aggregates points from implementation practice and results. The percentage in the centre represents the ratio of points in relation to the maximum.

### Recommendations

1. The Government should assign clearer institutional responsibility for steering administrative simplification to a central institution or unit and initiate efforts to review and optimise complex procedures for both citizens and businesses.
2. The MPA should develop a common methodology, guidelines, or other incentives for individual organisations to develop their service standards corresponding to targets of different service sectors. It should also regularly collect users' views and preferences and use that feedback for service improvement.
3. The MPA should establish a system for regular public reporting about service performance and user satisfaction in the entire central government for both digital and in-person services and to incentivise other agencies to track and report progress.
4. The MPA should initiate more co-ordinated inter-institutional collaboration towards developing integrated services that consider important situations in citizens' and businesses' lives, such as having a baby, being unemployed, or starting a business, and using data already held in official records to anticipate and offer proactive reminders and benefits, or pre-fill user information.
5. The MPA should prioritise the full implementation of the National Interoperability Framework, including increasing the number of information systems corresponding to its requirements.
6. The MPA should finalise the catalogue of e-services, including key information about each service's delivery process, and extend it to all public services as the foundation of the e-government portal.
7. To reap the full benefits of the resulting data exchange, the Government should set and steer a clear data policy and data governance framework, especially to ensure data quality and information security.

## Analysis

### Principle 19: Users are at the centre in design and delivery of administrative services.

A notable advancement in the past years is the completion and clarification of Montenegro's strategic plans for improving public service delivery. Current practices, however, fall short in several areas: limited digital access to services, insufficient focus on users, inadequate collection and use of user feedback, poor communication of service standards, and inadequate reporting on service performance. The Government has a system in place for analysing the administrative burden caused by new regulations. Still, it lacks a clear policy and leadership to optimise the existing procedures.

Indicator 19. Enablers for user-centric services		2024 indicator value	29/100
Sub-indicators		Points	
1.	Existence of a service delivery policy and institutional set-up	7.5/20	
2.	User engagement and participation	0/20 <sup>i</sup>	
3.	Procedures and practice to control creation of administrative burdens	15/15	
4.	Analysis of administrative burdens of existing regulations	6/15	
5.	Existence of service delivery standards	0.5/15	
6.	Monitoring system of service standards	0/15 <sup>i</sup>	

Note: i = data not available or not provided.

The Government adopted three important planning documents in late 2021 and mid-2022: the PAR Strategy 2022-2026, the Digital Transformation Strategy 2022-2026, and the Strategy for the Protection of Persons with Disabilities from Discrimination and the Promotion of Equality 2022-2027. Collectively, these strategies determine objectives, actions and indicators that enhance the quality and efficiency of government service provision. This, among other aims, includes improved user satisfaction, interoperability of government information systems, and increasing accessibility for individuals with disabilities.

The MPA, which was reorganised in 2023, has the central role in steering the service delivery policy. The MPA co-ordinates the implementation of the PAR agenda, general administrative procedures, and digital transformation initiatives across the central and local governments.<sup>199</sup> As such, the MPA is the main support provider for service delivery improvements and digital transformation. The actual (re)design, modernisation, simplification, monitoring and evaluation of individual services and procedures is not centrally steered. These efforts reside with the individual line ministries and other service providers. The MPA also lacks strong benchmarks for monitoring improvements, as many indicators in the current PAR and digital transformation agendas are activity- or output-based (e.g. “number of digitalised services”, “number of electronic exchanges”).

Efforts to reduce bureaucracy and red tape are also weakened since there is no common approach or authority to steer administrative simplification policy. The Competitiveness Council, composed of high-level government and private sector officials, identifies possible amendments to eliminate business environment and competitiveness barriers.<sup>200</sup> Their action plan for 2024, a part of the Western Balkan Reform and Growth Plan, focuses on economic and financial barriers and policy issues. However, Montenegro lacks two key elements for administrative efficiency: an administrative simplification plan and a dedicated authority to assess and lead optimisation initiatives. These gaps limit efforts to streamline existing

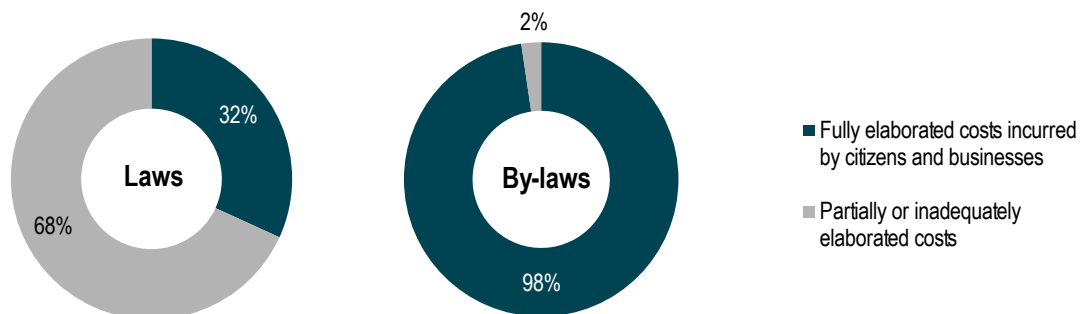
<sup>199</sup> Regulation on the Organisation and Mode of Work of the State Administration, Official Gazette No. 113/23.

<sup>200</sup> Decision Establishing the Competitiveness Council, Official Gazette Nos. 026/21, 099/21, 065/22, 109/23.

procedures, reduce complex administrative requests, eliminate unnecessary procedures, minimise bureaucratic steps, cut excessive paperwork, and lower administrative fees for citizens and businesses.

Basic checks of estimated administrative burden arising from new legislation are established through the requirements and current practice with regulatory impact assessment (RIA). The administration regularly analyses whether new regulations impose unnecessary administrative burdens on citizens and businesses. The Ministry of Finance is responsible for the RIA quality assurance. The 2023 findings<sup>201</sup> indicate that out of 44 laws and 43 by-laws requiring administrative burden assessment, 14 laws (32%) and 41 by-laws (95%) had their cost sections fully elaborated. The challenge is the quality of assessment and methods used. Ministries lack the capacity to use more quantitative methods, such as standard cost models. They often prioritise direct and positive effects over negative and indirect ones and do not analyse other elements beyond direct financial costs, such as time and complexity of procedures.<sup>202</sup> Figure 39 shows that 68% of laws requiring burden assessment had the costs elaborated partially or inadequately.

**Figure 39. Share of draft laws and by-laws with information about estimated costs for citizens and businesses, 2023**



Note: Data refer to the laws and by-laws requiring detailed cost estimates.

Source: Adapted from the Ministry of Finance (2024), *2023 Qualitative Report on The Implementation of Regulatory Impact Assessment (RIA) in Montenegro*, <https://wapi.gov.me/download-preview/67bf4887-fd87-47da-96e8-1b3ec8fc916e?version=1.0>.

Service standards across government institutions are not in place. Officially approved e-accessibility standards are embedded in the Rulebook on Accessibility Standards for Public Sector Webpages.<sup>203</sup> While the legal framework safeguards the good (digital) governance principles, the Government does not communicate benchmarks that define a good service to users, both in person and digitally. These can be minimum obligations to users or quantitative targets to be achieved. Line ministries are neither formally obliged, incentivised, nor guided in defining and communicating their own standards to users. There is no evidence of institutions that have proactively published standards for in-person or digital services. This is a shortcoming, as standards depend on different needs and target groups of different service sectors.

Similarly, there is no central data collection or reporting on service performance. There are no overviews of how services are functioning by provider, such as monthly transaction volumes, waiting times, response times or transaction costs. If such practices exist, these are managed individually, without central support, incentives or standardised methodologies. Present mechanisms indirectly assess service quality by monitoring pertinent regulations and policies. For example, the MPA prepares detailed annual reports on

<sup>201</sup> Ministry of Finance (2024), *2023 Qualitative Report on The Implementation of Regulatory Impact Assessment (RIA) in Montenegro*, p. 27, (accessed on 1 June 2024), <https://wapi.gov.me/download-preview/67bf4887-fd87-47da-96e8-1b3ec8fc916e?version=1.0>.

<sup>202</sup> Ibid.

<sup>203</sup> Official Gazette No. 105/2020.

the application of the LAP. The reports should consolidate data from central and local public authorities,<sup>204</sup> however in recent years these cover only the local government including information on different legal aspects, such as channels parties use to initiate administrative procedures, trends in unresolved cases, case resolution timeliness and success rates of appeal procedures, among others. Reports mostly describe the quality of administrative proceedings from the administration's perspective and do not clearly display performance metrics by (at least a good sample of) individual procedures. In the upcoming period, the MPA does plan to set out guidelines for public administration bodies on reporting about electronic services to the MPA.<sup>205</sup>

Some general satisfaction surveys were carried out in 2021 and 2022 to better understand user needs and expectations. The MPA, supported by the United Nations Development Programme, collected citizen and business perspectives on e-services. The Tax Administration's survey of late 2021 and early 2022 focused on taxpayers' views. These surveys are project-based, which makes their ongoing regularity and sustainability uncertain. With regard to other service providers,<sup>206</sup> there are no established user engagement and participation practices besides formal appeals and complaints processes or ad hoc practices (suggestion boxes and informal communication). Additionally, the administration does not provide transparency on how it uses the collected feedback or whether users' views have contributed to concrete cases of service (re)design.

<sup>204</sup> LAP, Official Gazette Nos. 20/15, 40/16, 37/17.

<sup>205</sup> Activity envisaged in the Action Plan for Digital Transformation Strategy 2022-2026.

<sup>206</sup> Services related to: 1) registering in the civil registry any of the following events: birth, marriage, divorce, death; 2) registering/requesting certificates to the administration of the healthcare system (e.g. obtaining a health insurance card, a certificate of proof of health insurance coverage, certificate of vaccination, etc.); 3) claiming unemployment benefits; 4) applying for a disability pension; 5) presenting an income tax declaration; 6) registering a second-hand car; 7) providing information and guidance to entrepreneurs in the process of starting a business; 8) registering a new employee; 9) declaring corporate income tax; 10) declaring value-added-tax (VAT); 11) registering financial statements in the business registry; and 12) applying for an environmental subsidy (e.g. for installing solar panels, improving building insulation, etc.).

## Principle 20: The public administration delivers streamlined and high-quality services.

Many related public services in Montenegro can be completed within the same location or premises, although primarily as separate procedures. Current practices do not typically consider a service seeker's entire life situation or cycle. There is significant unused potential for one-stop shops and for providing services proactively, based on data kept in official records, instead of having users request them. Users have the legal right to provide data to the administration only once, but several procedures request the provision of documents and information that other government institutions already have. Roughly around one-half of surveyed citizens and slightly fewer businesses have had a positive experience with different aspects of administrative procedures.

Indicator 20. Delivering high-quality services		2024 indicator value	29/100
Sub-indicators		Points	
1.	Quality of selected administrative services	15.8/40	
2.	Integrated life-event services	6/20	
3.	Pre-filing of forms and proactive services	0/20 <sup>i</sup>	
4.	Once-only principle	7.4/20	

Note: i = data not available or not provided.

The LAP<sup>207</sup> promotes service provision through a single access point (one-stop shop) and the right to provide information to the administration only once.<sup>208</sup> In addition, the Law on Electronic Government<sup>209</sup> sets the foundation for public administration interoperability infrastructure and electronic data exchange. These provide the basic conditions for offering services in the form of “life events” – coherent service packages that support users in their different life situations, such as having a child or moving residence.

In practice, these conditions have not been fully leveraged. Administrative procedures are often not fully aligned with the principles set out in the LAP, being burdensome and lengthy and constraining simpler and more efficient digital service delivery. Examined groups of services<sup>210</sup> are primarily co-located within the same public administration building. For example, when having a child or moving residence, services related to the civic registry and identification documents can all be completed at the regional offices of the Ministry of Interior. Other services from the same life event but managed by different agencies are not available through a single procedure or location and must be handled separately. A mature one-stop shop system that would foster back-end collaboration between different agencies and front-end service integration through a single access point is lacking. A good practice example in business-related services is the single registration form (“JRP”), used for registering employees with the Tax Administration, Employment Bureau and Pension Fund, managed by the Central Register of Contributors and Beneficiaries, Tax Administration.

Life-event service provision should also rely on proactive and anticipatory services, whenever possible, without the user having to request them. For example, citizens currently do not receive notifications when their personal documents are about to expire. Nor are they proactively informed of rights to certain benefits, such as child allowance, though the administration has previously registered information about the life

<sup>207</sup> Official Gazette Nos. 056/14, 20/15, 40/16, 37/17.

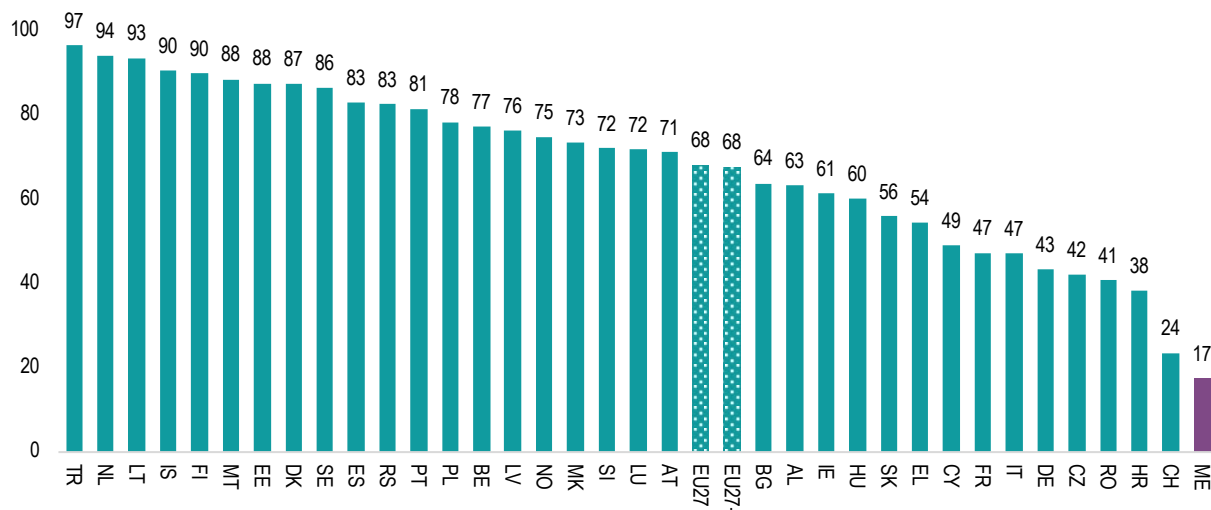
<sup>208</sup> The legal principle by which users have the right to provide the public administration with information and documents only once, while the administration exchanges user information within and across government levels.

<sup>209</sup> Official Gazette No. 72/2019.

<sup>210</sup> Services related to the following life events were examined: being unemployed; having a baby; death of a close relative; moving residence within the country; and starting a business.

situations that make them eligible for such services. Tax declarations are not pre-filled with personal and other information held by the authorities. The EU eGovernment Benchmark found that only 17% of the services examined pre-fill personal information (19% for businesses and 16% for citizens). Compared to 68% at the EU27+ level, Montenegro is significantly behind (Figure 40).<sup>211</sup>

**Figure 40. The EU eGovernment Benchmark indicator for “pre-filled forms”, 2023**



Note: Data refer to the overall score (business life events and citizen life events) for the indicator “Pre-filled forms”.

Source: European Commission (2023), *eGovernment Benchmark 2023*, <https://digital-strategy.ec.europa.eu/en/library/egovernment-benchmark-2023>.

The LAP continues to provide a general framework for good and effective administration. Through the principle of obtaining data *ex officio*, outlined in Article 13, parties in administrative procedures have the legal right to provide information and documents to all levels of government only once, while bodies share and re-use the information instead of requesting it again. The Electronic Data Exchange System facilitates this exchange. A good example of reducing the number of paper proofs required from service seekers is the Social Welfare Information System, which supports interoperability between nine national institutions.

However, the practical application of Article 13 continues to show challenges at both central and local levels. Despite the general provision in LAP Article 13, there are still government by-laws setting procedures that require the provision of data or documents that other state institutions have. According to the 2022 administrative affairs report, requesters on the local level are still asked to provide data already held by authorities.<sup>212</sup> For instance, applying for a building permit requires the submission of a land title document, and marriage applications require a birth certificate and proof of single status. Some municipalities do not have electronic access to data from the registers.<sup>213</sup>

Results of SIGMA Surveys of Citizens and Businesses on public administration in the Western Balkans, indicate an overall partial implementation of the once-only principle. On average, 44% of valid citizen responses and 50% of valid business responses confirmed that the administration required information contained in official records (Figure 41 and Figure 42). Perceptions differ between institutions. Among

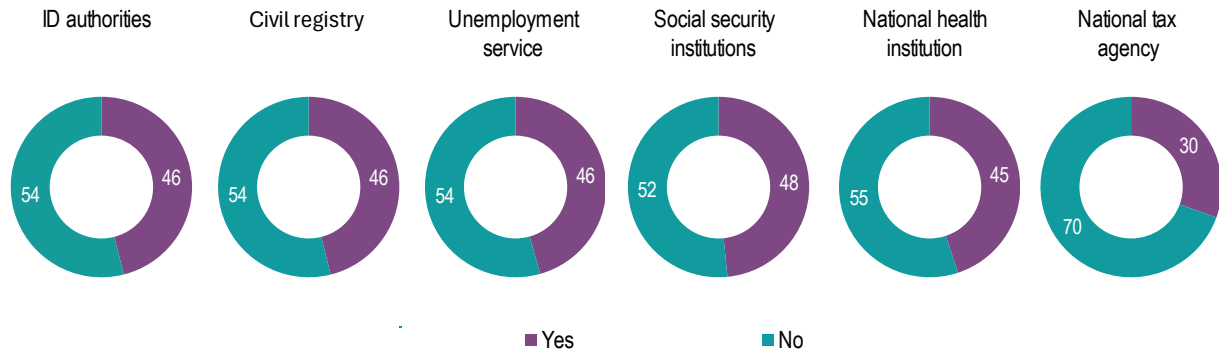
<sup>211</sup> European Commission (2023), *eGovernment Benchmark 2023 – Factsheets*, <https://digital-strategy.ec.europa.eu/en/library/egovernment-benchmark-2023>, p. 49.

<sup>212</sup> MPA (2022), *Izveštaj o stanju u upravnim stvarima za 2022. godinu, sa osvrtom na 2021. Godinu [Report on the situation in administrative matters for the year 2022, with reference to the year 2021]*, Ministry of Public Administration, Podgorica, p. 6.

<sup>213</sup> Ibid.

citizens, the National Tax Authority Services is the institution for which a smaller percentage of citizens declared they did not have to present information already known by the administration (30%). On the other hand, 50% of businesses indicated they were required to produce additional information when declaring corporate tax, 57% when registering a new employee and 42% when registering financial statements.

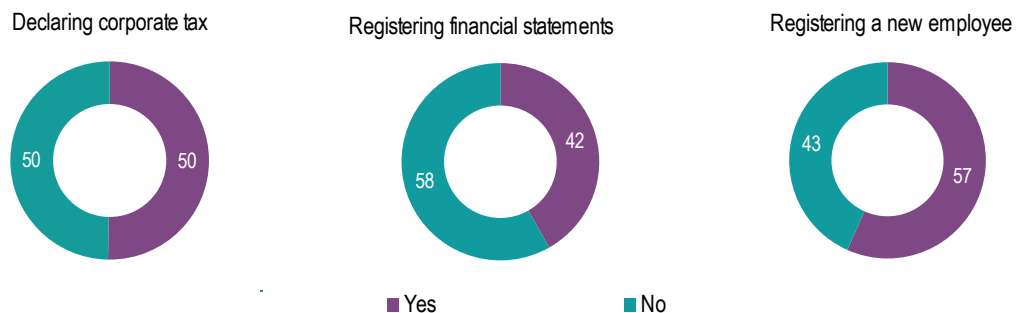
**Figure 41. Citizen perception of the implementation of the once-only principle**



Note: Percentage of valid responses to the questions: “Were you required to present documents or information (for example, your birth date, a copy of your tax declaration, birth certificate or similar) that the public administration already had?” for the administrative services provided by the following public institutions: 1) authorities in charge of renewal of ID card or passport; 2) civil registry; 3) national health institutions; 4) employment agency; 5) social security; and 6) tax agency.

Source: SIGMA Surveys of Citizens on public administration in the Western Balkans 2024.

**Figure 42. Business perception of the implementation of the once-only principle**



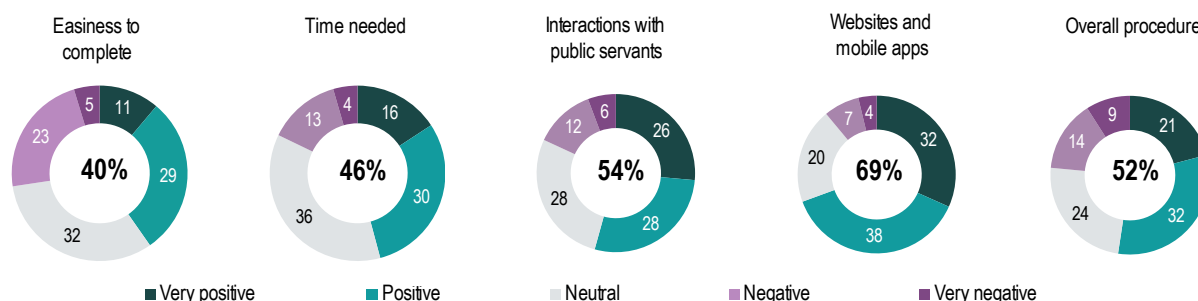
Note: Percentage of valid responses to the questions: “This last time you applied for such a service, were you or your colleagues required to present documents or information, such as a copy of tax declaration or certification of not having debts with the tax office, which the public administration should have already?” for the following administrative services: 1) declaring corporate income tax; 2) registering financial statements in the business registry; and 3) registering a new employee to the competent authorities.

Source: SIGMA Surveys of Businesses on public administration in the Western Balkans 2024.

Perception of both user categories, citizens and businesses, on various aspects of service provision predominantly falls in the middle of the satisfaction scale (Figure 43 and Figure 44). Citizens' satisfaction varies from 49% regarding the ease of using online channels for service access to 59% concerning interaction with civil servants or time required to complete services. Businesses tend to be more critical across all aspects of service provision. Their satisfaction levels consistently fall below those of citizens. An exception is in using service websites and mobile apps, where 67% of businesses express satisfaction compared to 49% of citizens, showing a difference of 18 percentage points. Conversely, businesses are significantly less satisfied with the ease of completing procedures, with only 38% expressing a positive experience, in contrast to 52% of citizens. Up to one-third of businesses express neither satisfaction nor

dissatisfaction with services. The noticeable number of neutral responses among both groups presents an opportunity for improvement and requires further investigation into users' needs and preferences.

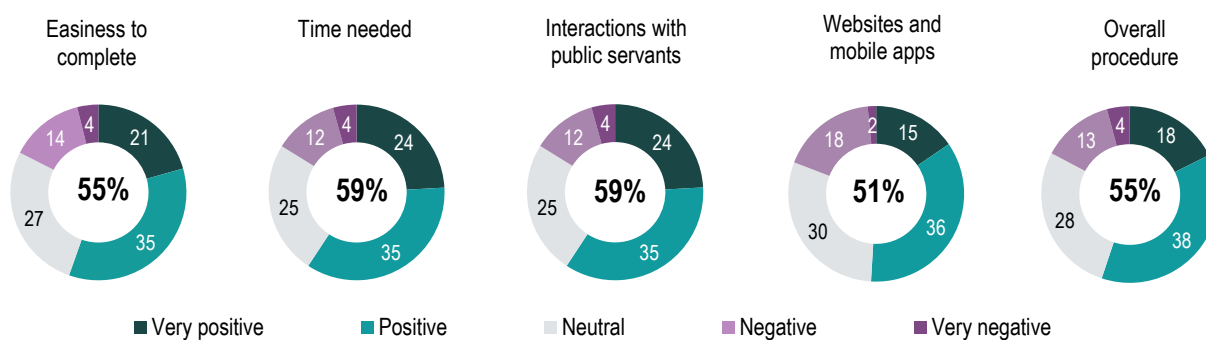
**Figure 43. Business satisfaction with different aspects of administrative service delivery**



Note: Percentage of valid responses to the questions: "How easy or difficult was it for you to use the service website, for example, to find what you needed or to understand what to do?"; "How easy or difficult was it for you to use service mobile application: for example, to find what you needed or to understand what to do?"; "Overall, how satisfied or dissatisfied were you with the public servants you interacted with?"; "Were you satisfied or dissatisfied with the overall time that it took to complete your application with the institution the last time, including time filling forms and/or visits to the offices?"; "How easy or difficult was it to complete the process (e.g. number of visits necessary, going to the wrong institution, etc)?"; "How satisfied were you with the overall procedure with the service this last time?". The percentage in the middle is the share of the respondents who answered "very positive" or "positive".

Source: SIGMA Survey of Businesses on public administration in the Western Balkans 2024.

**Figure 44. Citizen satisfaction with different aspects of administrative service delivery**



Note: Percentage of valid responses to the questions: "How easy or difficult was it for you to use the service website, for example, to find what you needed or to understand what to do?"; "How easy or difficult was it for you to use service mobile application: for example, to find what you needed or to understand what to do?"; "Overall, how satisfied or dissatisfied were you with the public servants you interacted with?"; "Were you satisfied or dissatisfied with the overall time that it took to complete your application with the institution the last time, including time filling forms and/or visits to the offices?"; "How easy or difficult was it to complete the process (e.g. number of visits necessary, going to the wrong institution, etc)?"; "How satisfied were you with the overall procedure with the institutions this last time?". The percentage in the middle is the share of the respondents who answered "very positive" or "positive".

Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024.



### Principle 21: Administrative services are easily accessible online and offline, taking into account different needs, choices and constraints.

While the Government continues to expand the scope of digital services, examined services are mostly traditional and paper-based. A focus on different access channels is generally missing, limiting the adaptation of services to diverse user groups. Physical accessibility is ensured through a good distribution of offices and mandatory construction standards, and e-accessibility regulations are in place. However, the current number of public institutions accessible to users with special needs is unclear.

Indicator 21. Accessibility of administrative services		2024 indicator value	52/100
Sub-indicators		Points	
1.	Multi-channel service delivery	12/20	
2.	Physical access to public services	13.5/20	
3.	Accessibility of services for users with special needs	2.7/20	
4.	Findability of public services information	10.3/20	
5.	Clarity of government information and communication	13.9/20	

While work is in progress to advance the number of transactional services, many important procedures remain offline only, which impacts service accessibility. Per LAP and electronic government legislation, users are entitled to submit electronic requests to start administrative procedures and receive electronic documents.<sup>214</sup> However, the tools to support this right appear deficient in many cases. In 2022, the administration received a markedly low volume of electronic requests for administrative procedures: 2% on the local level and 1% on the central government level.<sup>215</sup> The MPA reports that some authorities explicitly required paper submissions.<sup>216</sup>

Many services continue to be offered without an online option – for example, applying for unemployment benefits, registering a second-hand car, applying for a retirement pension, and registering the death of a family member. Online business registration is currently possible for single-member limited liability companies. By contrast, the Tax Administration mandates the use of online channels for value-added tax and corporate income tax returns. However, digital-only services lack clear communication and actual practice regarding users' ability to request human assistance at any stage of the process, causing public services to fall short of expectations for a multi-channel approach that caters to diverse user needs.

The e-payments portal provides a positive example. The new administrative fees payment system "ePlaćanje"<sup>217</sup> facilitates service access by reducing the time and effort previously needed to process multiple payment slips for different procedures. It currently supports electronic payments for 125 administrative fees and 108 other charges related to central administration services, with plans to extend to the local level. Users no longer need to present proof of payment for in-person services or pay additional commissions. Its practical uptake, however, has yet to gain momentum as only 14 state institutions had adopted it at the time of assessment, and some agencies lacked awareness of the system's existence.

<sup>214</sup> The Law on Electronic Government and LAP.

<sup>215</sup> MPA (2022), *Izveštaj o stanju u upravnim stvarima za 2022. godinu, sa osvrtom na 2021. Godinu [Report on the situation in administrative matters for the year 2022, with reference to the year 2021]*, Ministry of Public Administration, Podgorica.

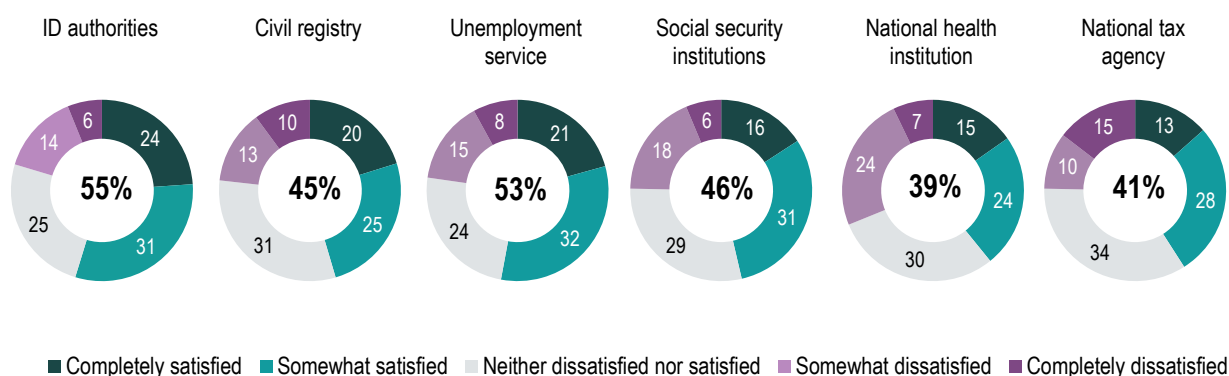
<sup>216</sup> Ibid.

<sup>217</sup> More information on ePlaćanje is available at <https://eplacanje.gov.me>.

Geospatial data shows that around 93% of the population can access employment agencies and disability insurance fund offices within a 30-minute drive. Small businesses may face difficulties as business registration remains in the capital city only, though applications are also received by post.

However, these findings do not coincide with citizen perception. Only 39% of respondents are satisfied with the time needed to reach in-person services related to pensions or allowances, and 46% are satisfied with the geographical access to services for the unemployed. On average, less than half of surveyed citizens (46%) are satisfied with the time needed to reach various service providers (Figure 45). Citizens are most satisfied with the commuting time to visit ID authorities (54%).

**Figure 45. Citizen satisfaction with the commuting time needed to visit public administration offices**



Note: Percentage of valid responses to the questions: "How satisfied or dissatisfied were you with the access to the in-person services of the institution when you were in contact last time? By this I mean the time to reach the administrative office from your home?. The percentage in the middle is the share of the respondents who answered "completely satisfied" or "somewhat satisfied".

Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024.

The policy framework for barrier-free services for users with special needs is established through anti-discrimination legislation,<sup>218</sup> construction standards, and the Strategy for the Protection of Persons with Disabilities from Discrimination and the Promotion of Equality 2022-2027. A special by-law<sup>219</sup> stemming from the Law on Spatial Planning and Construction<sup>220</sup> sets the mandatory accessibility standards for the construction or retrofitting of public sector buildings. However, the Government does not regularly monitor or keep up-to-date records of how accessible public sector buildings are and what needs to be improved further. Additionally, sign language is not officially recognised despite continuous calls by non-governmental organisations, and users are not granted the right to communicate with government institutions in Braille (e.g. to submit requests or receive written information). This hinders information access and exchange for individuals with disabilities. Current institutional efforts in this regard are individual and ad hoc.

The e-accessibility criteria are in place. The MPA developed Guidelines for Developing and Managing Internet Presentations of Public Administration (v3.0, 2019) and adopted a by-law on accessibility

<sup>218</sup> Law on Anti-Discrimination of Persons with Disabilities, Official Gazette No. 044/15 and Law on Anti-Discrimination, Official Gazette Nos. 046/10, 040/11, 018/14.

<sup>219</sup> Rulebook on Detailed Conditions and Methods of Adjustment of Facilities for Access of Persons with Reduced Mobility and Persons with Disabilities, Official Gazette Nos. 048/13, 044/15.

<sup>220</sup> Law on Spatial Planning and Construction, Official Gazette Nos. 064/17, 044/18, 063/18, 011/19, 082/20.

standards for public administration information systems (2020).<sup>221</sup> A penalty of up to EUR 2 000 is envisaged for failure to comply with accessibility standards,<sup>222</sup> though it is unclear how and whether it is enforced. The GOV.ME portal uses an accessibility tool and runs on a dedicated accessibility server that scans for compliance with the W3 Web Content Accessibility Guidelines (WCAG 2.1).

The eUprava Portal<sup>223</sup> serves as the central government portal for information about services and accessing certain digital services. The origin of the portal dates back to 2011. The Government is working on a new version that is expected to be ready by the end of 2024. Parallel portals also exist, offering digital services of individual service providers, such as the Tax Administration or the Health Insurance Fund. To enable easy access to information about services, the MPA is leading an inventory of administrative procedures intending to provide a comprehensive public source of information for any service seeker. The *Guide of Administrative Procedures of the Government of Montenegro* should encompass citizen and business procedures of all ministries by the end of 2024. Details will include the intended service recipients, means of access, administrative fees, delivery deadlines and legal remedies.

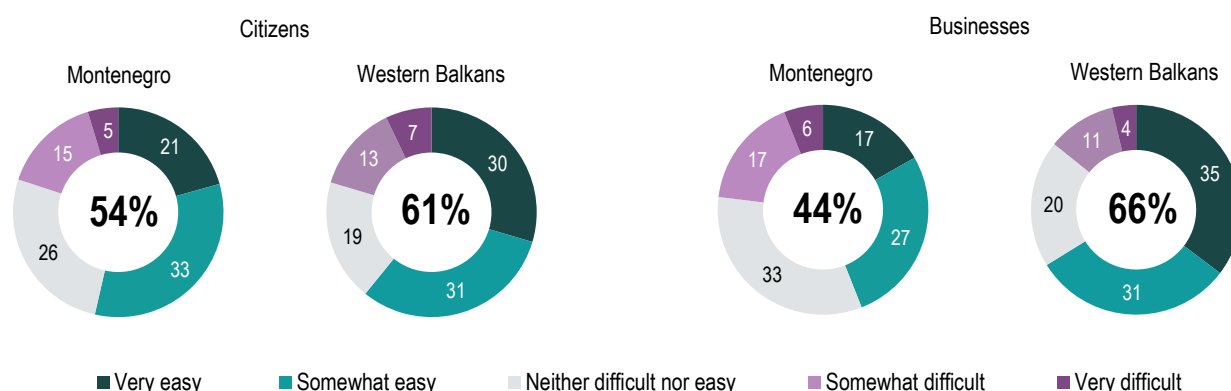
Another service accessibility issue is the lack of common guidelines on the clarity of government communication, i.e. government bodies need to use simple and understandable language in their written communications for customers. The current practice reflects users' satisfaction (Figure 46). On average, around half of surveyed citizens (54%) and businesses (44%) find it somewhat easy or very easy to understand public authorities' communications. Clear communication is essential as it ensures users of all literacy levels can understand their rights and obligations while also increasing administrative efficiency by reducing user errors in completing requests and minimising the need for repeated inquiries and clarifications.

<sup>221</sup> Rulebook on Accessibility Standards, Official Gazette No. 105/2020, based on the Law on Electronic Government, Official Gazette No. 72/19.

<sup>222</sup> Law on Electronic Government, Article 35.

<sup>223</sup> The eUprava Portal can be consulted at <https://www.euprava.me>.

**Figure 46. Citizen and business satisfaction with the clarity of language used in government communications**



Note: Percentage of valid responses to the questions: "How easy or difficult would it have been for you and your colleagues to understand the public authorities' written communication, such as letters and e-mails received, or information from the website, if you could not use the help of external experts (external accountant, lawyer, consultant)" for businesses and "How easy or difficult was it for you to understand the institution's written communication, such as letters and e-mails received, or information from the website?" for citizens.  
 Source: SIGMA Surveys of Citizens and Businesses on public administration in the Western Balkans 2024.

**Principle 22: Digitalisation enables data-driven decisions and effective, efficient and responsive policies, services and processes in the whole of government.**

Since 2021, Montenegro has clarified its public sector digitalisation efforts by adopting a Digital Transformation Strategy (2022-2026) to modernise its ICT infrastructure and boost digital skills and awareness. The main challenges continue to include consolidating e-services into a single portal and enhancing interoperability between institutions, with a lack of co-ordination and governance mechanisms delaying key activities. The legislative framework also needs further development, including in terms of strengthening cybersecurity and data governance.

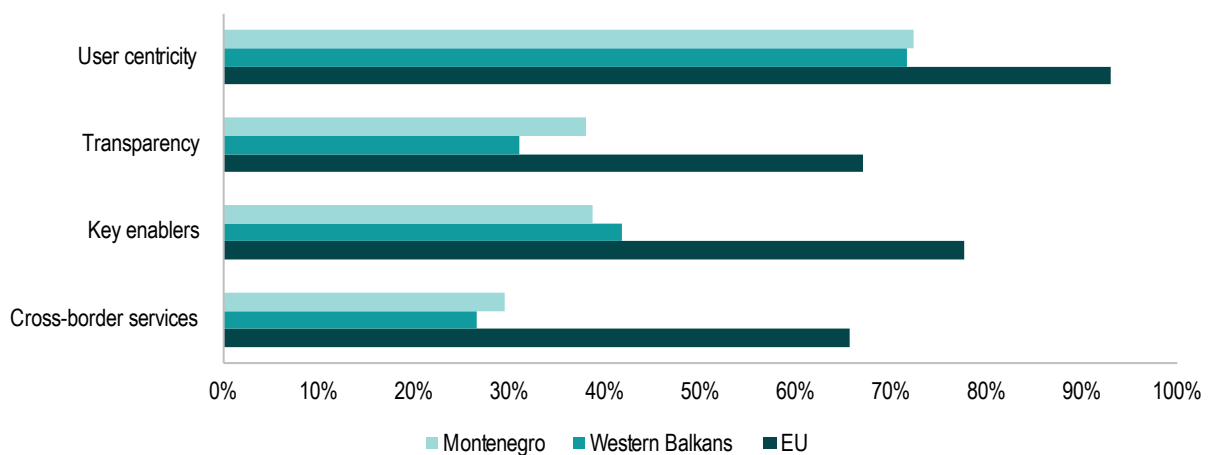
Indicator 22.1. Digital government readiness and maturity	2024 indicator value	24/100
Sub-indicators	Points	
1. Digital government strategy and co-ordination	4/10	
2. Digitalisation of public registries and data governance	1/15	
3. Interoperability: infrastructure, framework and adoption	5/15 <sup>i</sup>	
4. Digital identity, digital signature and trust services	6/15 <sup>i</sup>	
5. Digital government architecture and infrastructure maturity	0/15	
6. Uptake of emerging technologies in the public sector	2/10	
7. Legal framework for privacy and cyber security	3.5/10	
8. Digital talent management in public administration	2.7/5	
9. Re-use of digital solutions	0/5	

While comprehensive citizen-oriented service delivery modernisation is hindered by the lack of central steering and stable institutional set-up, the digital government area is better governed with clear leadership, co-ordination, and basic capacity to create integrated digital government strategies and services. The MPA

is formally and, in practice, leading digital government efforts, collecting data on the number of digital services provided and on their use.

Based on the data of the most recent eGovernment Benchmark report,<sup>224</sup> Montenegro has been improving in recent years, but its overall score is still lower compared to any EU Member State. Its most recent score is 64.9 out of 100, compared to the EU average of 92.1 points.<sup>225</sup> Though Montenegro performs well below the EU average, it is close to the Western Balkan average in all analysed aspects of online services (Figure 47).

**Figure 47. Maturity of key aspects of digital government services, 2023**



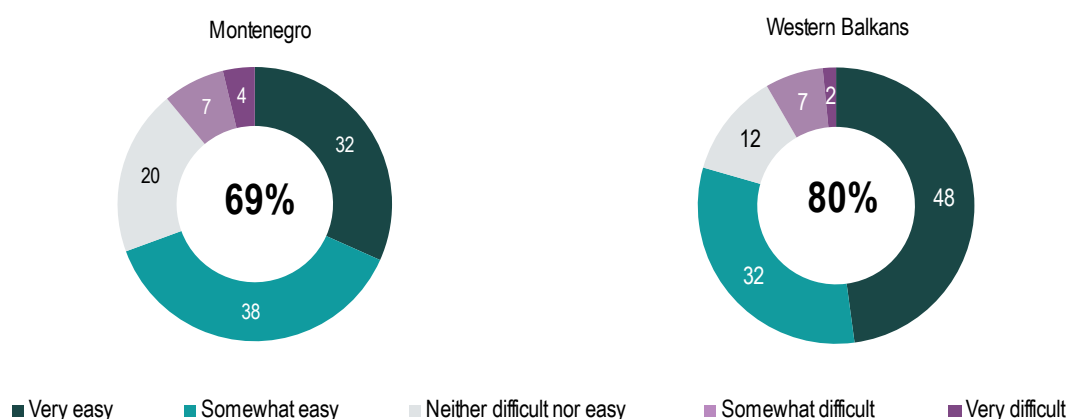
Source: European Commission (2023), *eGovernment Benchmark 2023*, <https://digital-strategy.ec.europa.eu/en/library/egovernment-benchmark-2023>.

The slow progress in digital service delivery is also reflected in service users' perceptions, which tend to be low compared to other administrations of the region (Figure 48). Only 31% of businesses consider online information very easy to obtain, which is significantly lower than the regional average.

<sup>224</sup> European Commission (2023), *eGovernment Benchmark 2023*, <https://digital-strategy.ec.europa.eu/en/library/egovernment-benchmark-2023>.

<sup>225</sup> Data are calculated as the average of the 2022 and 2023 data collection rounds.

**Figure 48. Business satisfaction with online channels during administrative procedures in the Western Balkans**



Note: Percentage of valid responses to the questions: “How easy or difficult was it for you to use the website: for example, to find what you needed or to understand what to do?” (for those respondents who visited the institution’s website) and “How easy or difficult was it for you to use the mobile phone application: for example, to find what you needed or to understand what to do?” (for those respondents who used the institution’s mobile application). Responses are pulled together for both websites and mobile applications for the following administrative services: 1) declaring corporate income tax; 2) registering financial statements in the business registry; and 3) registering a new employee to the competent authorities. The distribution is calculated as a simple average between the three services. The percentage in the middle is the share of respondents who answered “very easy” or “somewhat easy”.

Source: SIGMA Survey of Businesses on public administration in the Western Balkans 2024.

Digital government is regulated by the Law on Electronic Administration,<sup>226</sup> which applies to both central and local level administrations. The LAP<sup>227</sup> also specifies citizens' and businesses' rights to interact with the government electronically. However, the legislative framework does not cover all key aspects of the complex topics around data governance, and cybersecurity requirements need to be further specified. Legal frameworks for digital services and data management need strengthening. Additionally, sectoral legal acts require harmonisation. These improvements are necessary to begin shifting away from the current prevalence of paper-based processes.

While the PAR Strategy 2022-2026 foresees the development of new e-services on a single e-government portal, 11 digitised services still exist on dislocated portals. The integration of the Information System for Electronic User Identification and Authentication (NS eID) and the Information System for the Collection of Administrative Fees (NS-NAT) with the e-government portal intend to establish high-level electronic services. Both demonstrate a promising start in implementation. However, there is no single catalogue of all administrative services provided to citizens at the central level, nor an overview of the data used to provide these services or the data that service users must submit themselves. The MPA is finalising the eservices catalogue, containing key information about the delivery process for each service and extending it to all public services as the foundation of the e-government portal.

The MPA adopted the National Interoperability Framework in 2017, which is being aligned with the new European Interoperability Framework. Currently, 46 registers are in the Meta Registry, of which 18 electronically exchange data between registers.<sup>228</sup> However, accurate information on the number of information systems and registers at the central level is lacking. To identify their functions and opportunities for data exchange, a detailed analysis of existing information systems and registers in public administration is planned to be concluded by the end of 2024.

<sup>226</sup> Official Gazette No. 072/19.

<sup>227</sup> Official Gazette Nos. 56/14, 020/15, 040/16, 037/17.

<sup>228</sup> Data received from the MPA, June 2024.

One of the main developments since 2021 is electronic identification via an ID card through the NS eID<sup>229</sup> national portal. It is developed for integrating the functionality of electronic identification into IT solutions that provide digital public services. The Ministry of Internal Affairs is responsible for issuing the new ID card (eID), which contains a means of electronic identification of high security and a certificate for a qualified electronic signature. The security of the electronic identification system is regulated by the Law on Electronic Identification and Electronic Signature.<sup>230</sup> Reportedly, 342 021 eID cards had been issued by July 2024, but no data were available on the actual usage of the identification and the qualified electronic signature. eIDs issued but not used are of little value to citizens and the Government. Thus, measurement and monitoring of usage is critical to start – to be able to plan any further steps for ensuring uptake and enabling digital services accordingly.

The Digital Transformation Strategy states that there is not enough available data that can be re-used innovatively to create added value, including for the development of artificial intelligence. Though the Open Data Portal has been created, only 20 institutions publish data on it, and the portal is not fully functional. There is no clear data policy or an institution explicitly responsible for it. Montenegro does not have an applicable data governance framework; nor does it specify data quality requirements for public sector institutions. This hampers the outlook to become more data-driven as a government, which is an essential part of digital government transformation.

Regarding the use of cloud services, 23 institutions reportedly use these services for 66 information systems.<sup>231</sup> According to the latest available annual report of the MPA (2022), 47 information systems and 19 state institutions are on the government cloud platform. This is a good development, though further coverage is needed to reap increased benefits from information technology (IT) solutions across government institutions. In this context, it is noteworthy that government-wide IT requirements and architecture governance do not exist. The Law on Electronic Administration requires state administration bodies to obtain the consent of the MPA on the conceptual solution for new information systems or substantive developments to existing systems. There is however no tangible information about the regularity or depth of the *ex-ante* reviews of larger government IT projects. Technological upgrades and harmonisation throughout the Government are impossible without effective application of these governance mechanisms.

In terms of data protection regulations, despite announcements from 2020 that the Law on Protection of Personal Data would be harmonised with the General Data Protection Regulation, no changes have yet been adopted. Also, the current Law on Information Security from 2021 is not aligned with the European Network and Information Security (NIS) Directive. However, work on the new Law on Information Security has advanced – it was approved by the Government in May 2024 and sent to Parliament for adoption. The new law is expected to be fully harmonised with the NIS 2.0 Directive from December 2022, including strict measures to strengthen cybersecurity<sup>232</sup>. For the medium to longer term, the key task for the Government will be to bring the whole of government up to these requirements and ensure cybersecurity at large, hand-in-hand with extending its digital service offerings.

While the PAR Strategy 2022-2026 aims to make public administration an attractive employer, partly addressing the development of digital skills for public administration employees, it does not include any indicators for retaining IT talent in public administration. There is reportedly no specific plan for increasing the digital skills of the public service workforce. While lower than the region's average, Montenegrin civil servants generally do not esteem needing additional digital skills to do their work (Figure 49). This, in part, also reflects the low demand for civil servants to use complex digital solutions in their day-to-day work.

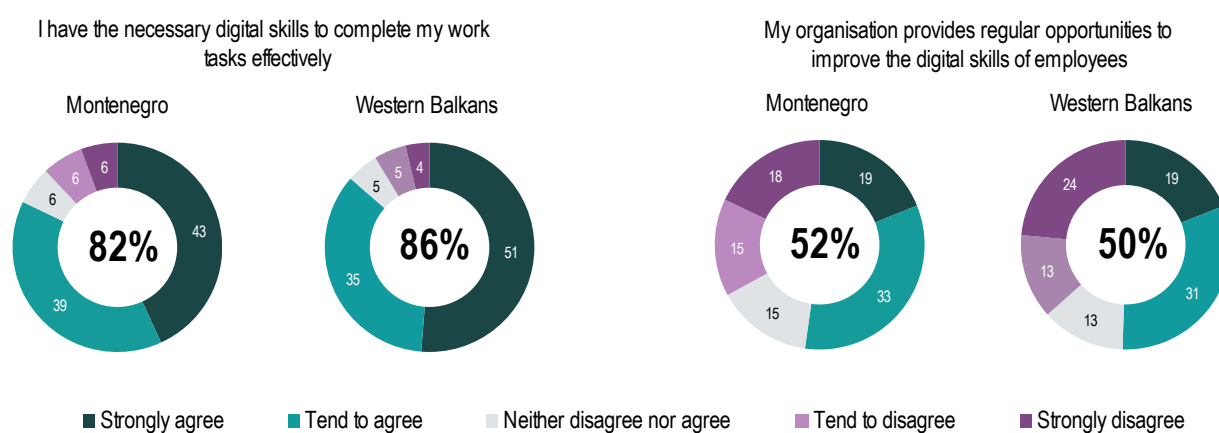
<sup>229</sup> NS eID is an information system that has the function of authentication and authorisation of users when using electronic services.

<sup>230</sup> Official Gazette Nos. 31/17, 72/19.

<sup>231</sup> Data provided by the MPA.

<sup>232</sup> Criteria have been also set according to the recently established ISO 27001 and 27002 standards for the Montenegrin national authorities that are in direct management co-operation with the European Commission.

**Figure 49. Perception of the level of digital skills among civil servants to meet the needs of the job functions and availability of training for digital skills**



Note: Percentage of valid responses to the questions: “To what extent do you agree or disagree with the following statements?” “I have the necessary digital skills to complete my work tasks effectively” and “My organisation provides regular opportunities to improve the digital skills of employees”. The percentage in the middle is the share of the respondents who answered “strongly agree” or “tend to agree”.

Source: SIGMA Surveys of Public Servants on public administration in the Western Balkans 2024.

Although the perception of missing digital skills is not widespread, the MPA has initiated the Digital Academy, an online education platform, to build digital and leadership skills among public officials, students and vulnerable groups. This is aligned with the perception that close to half of central government civil servants feel additional IT training opportunities are needed.



### Digital government tools

Regarding the use of digital tools for the key back-end processes for the functioning of the public administration itself (excluding digital tools for services directed at citizens and businesses), there is a good level of digitalisation, notably in relation to public sector transparency. However, there are areas where further digitalisation efforts are required.

Indicator 22.2. Digital government tools		2024 indicator value	53/100
Sub-indicators		Points	
1.	Digital access to legislation	10/10	
2.	Digital platform for public consultation	0/10	
3.	Human resource management (HRM) information system	1.4/15	
4.	Digital portal for recruitment	5/10	
5.	Open data and re-use of public information	16/20	
6.	Digital tools for internal control	5/10	
7.	Digital tools for accounting information	4/10	
8.	Public procurement data system	12/15	

Montenegro shows good use of digital tools to provide transparency and digital access to existing legislation. All primary and secondary legislation is available to the public online and free of charge, together with sufficient search functions. The digital platform for public consultation is operational, but its use by public institutions is modest at best. Regarding digital tools for human resource management (HRM), an information system has been developed with relatively broad functionality. However, it is not fully used in daily HRM procedures and does not interoperate with the payroll database or other registers. The basic IT systems in line ministries, the treasury accounting information systems and the e-procurement system are in place and fully functional. Still, limited coverage of auditing IT systems raises error and data security risks.

The Law on Free Access to Information's definition of data re-use and rules for imposing charges for data re-use are compatible with the Directive (EU) 2019/1024. The data.gov.me portal exists to facilitate access to state-managed data, but it does not currently provide access to any datasets.



## Public financial management

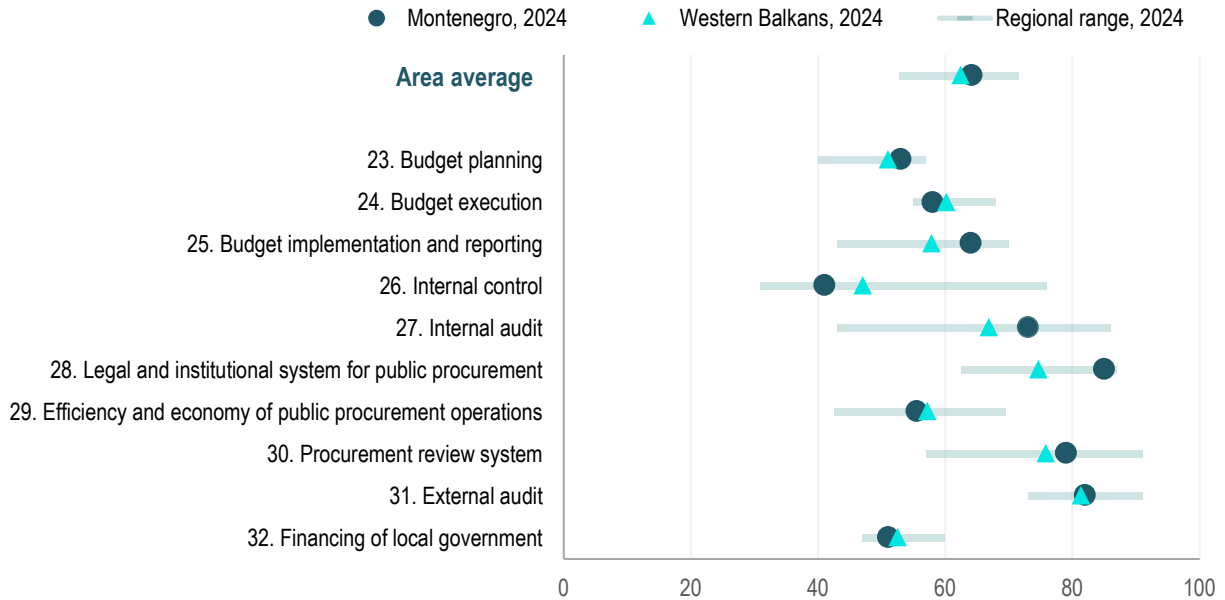
The public administration plans and manages public finances to ensure that they are **sustainable** and **transparent** and allow the delivery of policy objectives. Control, procurement and oversight arrangements are in place to ensure the economic, efficient and effective use of public resources shared across all levels of government.

### The Principles of Public Administration

Budget management	<b>Principle 23</b>	The annual budget is comprehensive and formulated within a credible and rolling medium-term framework, balancing policy needs with fiscal constraints.
	<b>Principle 24</b>	The government supports budget implementation and service delivery by ensuring liquidity in the short and medium term.
	<b>Principle 25</b>	The government implements the budget in line with estimates and reports on it in a comprehensive and transparent manner, allowing for timely scrutiny.
Internal control and audit	<b>Principle 26</b>	Public administration bodies manage resources in an effective and compliant manner to achieve their objectives.
	<b>Principle 27</b>	Internal audit improves the management of public administration bodies.
Public procurement	<b>Principle 28</b>	Public procurement legislation, including public-private partnerships and concessions, is based on principles of equal treatment, non-discrimination, transparency, proportionality and competition, and supported by a sound governance framework.
	<b>Principle 29</b>	Contracting authorities conduct public procurement operations, including public-private partnerships, efficiently and economically.
	<b>Principle 30</b>	An independent procurement review system ensures effective, rapid and competent handling of complaints.
External audit	<b>Principle 31</b>	All public funds are effectively audited by an independent auditor that provides assurance on the use of public resources and helps improve the functioning of the public sector.
Financing of local governments	<b>Principle 32</b>	Regional and local governments have resources and adequate fiscal autonomy for exercising their competences, with financial oversight to foster responsible financial management.

## Summary and recommendations

Figure 50. The overall indicator values in the public financial management area



Notes: The area average is a simple average of the Principles within the area. The Western Balkan average is calculated as a simple average of all administrations. Indicator 28 is the simple arithmetic average of 28.1. and 28.2. and indicator 29 is the simple arithmetic average of indicators 29.1. and 29.2.

### Budget management

The Law on Budget and Fiscal Responsibility (LBFR) governs the budget system in Montenegro. It is based on the Government’s Fiscal Strategy, the Fiscal Policy Guidelines (FPG) and the annual budget. **Some progress has recently been achieved in the development of the content of the FPG. However, the medium-term budget framework (MTBF) does not yet guide the annual budget in practice.** Despite a fixed budget calendar, delays in FPG adoption and draft budget submission occurred in 2023. While fiscal targets often exceed limits defined in fiscal rules, medium-term revenue forecasts are more credible. **The Fiscal Council, intended to independently review fiscal policy, is not functional. The legal framework for capital budgeting has been improved, but it is too early to see the impact in practice.**

**Efficient and effective tax collection faces several challenges.** Online personal income tax declarations remain low, at only 9.3% in 2022, and no tax compliance improvement plan is in place. **The commitment control system is not fully effective** and fails for example to prevent commitments beyond available budgets. While a debt management strategy is currently lacking, a new one for 2024-2027 is planned. Annual debt reports are published, but they do not provide explanations for deviations from forecasts.

**In recent years, the Government has aimed to improve budget credibility,** achieving an average variance in 2021-2023 of 5.1% for revenue and 2.3% for expenditures. Monthly in-year reports are prepared, but detailed data per ministry are lacking. The annual financial report in the form of a draft law for the implementation of the budget is comprehensive but has not been adopted by the Parliament for the last two years. **Fiscal risk management, monitoring responsibilities and accountability are not established.**

## Internal control and audit

The main development in the field of internal control and internal audit is the establishment of internal-control-related development goals in the Public Administration Reform (PAR) Strategy 2022-2026 and the Public Financial Management (PFM) Reform Programme 2022-2026. **While the legal and methodological base is detailed and comprehensive, implementation practices of internal control systems by budget users are inconsistent** and often the responsibility of specific functions in the organisations. A wider understanding of the objectives and principles of internal control and appreciation of internal audit are lacking. However, the **weaknesses are not fully addressed in the Government recommendations for the improvement of internal control nor in the strategies foreseeing measures to develop internal control**; the current measures are narrow and mainly under the responsibility of the Ministry of Finance (MoF).

**Various developments have taken place in implementing internal audit, which comply with international standards.** Two centralised internal audit units have been established and functional since 2021-2022 – one auditing European Union (EU) funds and another performing information technology (IT) audits. **Certification and professional development programmes function well, and there is progress in implementing the requirements of the quality assurance and improvement programme.** Although internal audit units are well established in the public sector, they tend to be understaffed, show low productivity and the implementation rate of recommendations is only at a moderate level and decreasing.

## Public procurement

The public procurement system relies on **a solid regulatory and institutional framework** and creates the necessary conditions for economy, efficiency, transparency and accountability of public procurement operations. **The legislation is well aligned with the EU *acquis*, but its implementation is not always effective**, particularly in the field of public-private partnerships (PPPs) and concessions. A comprehensive institutional framework is in place, with key procurement functions allocated to adequately organised public entities, although **the organisation of central purchasing requires improvement**.

Public procurement operations are supported by **many items of secondary legislation**, such as prescribing forms and procedures to be applied and providing guidance for their use. **Their focus remains on procedural details** for preparation, tendering, evaluation and award, and contracting, and would benefit from being complemented by guidance and training materials on needs identification, planning and contract management. The relatively large number of contracting authorities find it **challenging to ensure they have the necessary skills and resources** to fully apply good public procurement practices throughout the whole procurement cycle.

**The electronic procurement system (CeJN) has been further improved** and now has features allowing better capture of small-value procurement. **In 2024, a mechanism of prevention of possible irregularities was introduced**, whereby participating economic operators may seek redress against actions or decisions by contracting authorities through the lodging of a request to carry out the monitoring of a small-value procurement procedure. **In addition, the electronic procurement system has been functionally connected with other relevant online public registers** to facilitate the exchange of information between relevant institutions and combat irregularities. Obligations to record and report on contract implementation are in place, but their scope is not always sufficient to analyse if and to what extent procurement outcomes match original objectives and plans.

**The “most economically advantageous tender” is the default evaluation criterion, but, in practice, its application leads to awards based on the lowest price** at the time of purchase. Participation levels remain stable at 3.18 tenders per procedure, but almost half of the total number of contracts governed by the Public Procurement Law (PPL) were concluded after only one tender was received. Many prospective tenderers remain doubtful about the level of probity and impartiality in public procurement.

**The review body has new members** and is taking steps to improve its case management system.

## External audit

The constitutional and legal independence of the State Audit Institution of Montenegro (SAI) is well established, and organisational and managerial independence is in place. However, the **independence and organisation of the SAI have been negatively affected by the failure of the Parliament since July 2022 to appoint a president and a fifth member of the SAI**. This being said, the SAI continues to perform well under its mandate in line with international standards, working on improving its internal quality management and engagement with external stakeholders. **Over the last three years, the SAI's audit coverage has improved, with performance audits covering more and more policy areas**. The SAI systematically monitors and reports on the implementation of recommendations. However, limited implementation of SAI recommendations by auditees continues to limit the SAI's impact. This stands in contrast to the positive outcome of the SIGMA surveys, where a high percentage of civil servants found audit recommendations useful. **Parliament does not use audit reports consistently to hold the Government to account**.

## Financing of local government

The legal framework for local government finances includes **provisions to ensure the fiscal autonomy of municipalities**. It introduces various revenue streams and sets specific criteria for resource allocation to municipalities. Available resources are not commensurate to the responsibilities assumed by the municipalities, which sometimes fill gaps left by the State. This contributes to borrowing and over-indebtedness. The **relatively high level of municipal debt** is also linked to inadequate financial management, despite the multiple control mechanisms established by law. There are also significant revenue collection issues due to data collection and management problems. The **current equalisation system is ineffective**, and the level of inequality between municipalities remains much higher than in most EU countries. The new Public Financial Management (PFM) Reform Programme for 2022-2026 now includes the municipal level.

Overall, the existing legal framework, institutional set-up and related strategies and guidance are largely in line with the Principles of Public Administration, while implementation practice and results in public financial management include more gaps and inconsistencies.

**Figure 51. State of play in public financial management by type of criterion**



Notes: The results are split. The first combines points from legislation, policy and guidance, and institutional set-up. The second aggregates points from implementation practice and results. The percentage in the centre represents the ratio of points in relation to the maximum.

## Recommendations

1. Parliament should accelerate the establishment of the Fiscal Council and make it operational.
2. The MoF should introduce IT systems enabling online declaration of personal income tax to improve the effectiveness of income tax collection.
3. The Government should further develop the medium-term budget into a strategic document that effectively guides the annual budget preparation.
4. The MoF should accelerate the approval of a new debt management strategy.
5. The Government should comply with fiscal rules defined in the legislation when setting the fiscal targets in the strategic budget documents.
6. The MoF should adapt the accounting reform to the capacity of budget users and its own needs in terms of accounting information for strengthened fiscal discipline.
7. The MoF should ensure that the strategic development of internal control systems more strongly targets public institutions' management and staff appreciation of internal control and internal audit, especially to ensure improving fiscal discipline, safeguarding assets, setting objectives and reporting with full consideration of the ongoing budget, accounting and other applicable reforms.
8. The MoF should assess the reasons for the low productivity of internal auditors, find solutions to increase the number of audits per auditor and improve the quality of audit reports and recommendations.
9. Based on its analysis of the situation, the Ministry of Finance (MoF) should adopt specific measures to improve and expand centralised purchasing.
10. The MoF should provide a range of practical examples on how to use the full range of “the most economically advantageous tender” related criteria and facilitate the exchange of corresponding experience between contracting authorities.
11. The MoF should take steps to widen the offer of education and training in public procurement to cover the full public procurement cycle, possibly by leveraging external resources, as may be appropriate and possible.
12. The Montenegrin Investment Agency and the MoF should continue their efforts to educate relevant contracting authorities and entities on PPPs and help them identify and develop potential projects.
13. The Commission for Protection of Rights in Public Procurement Procedures should introduce and put to good use a proper case management system for its own needs, with functions allowing interested parties to search for and analyse its decisions more easily.
14. The Parliament should appoint the president of the SAI as soon as possible.
15. The Parliament, together with the SAI, should ensure the establishment of a formal mechanism ensuring that hearings with auditees present at the senior level take place in the committee responsible for budgetary control as well as sector policy committees.
16. The Ministry of Finance (MoF) should propose adjustments to the equalisation system to enhance the effects of equalisation, e.g. by introducing more selective and targeted criteria for the beneficiary municipalities.
17. The MoF should identify the reasons behind arrears in payments and address this issue to reduce unpaid municipal obligations.

## Analysis

### Budget management

#### Principle 23: The annual budget is comprehensive and formulated within a credible and rolling medium-term framework, balancing policy needs with fiscal constraints.

The LBFR governs the budget system and is based on the Government's Fiscal Strategy, the FPG and the annual budget. Some progress has recently been achieved in the development of the content of the FPG. However, the MTBF does not yet guide the annual budget in practice. Despite a fixed budget calendar, delays in FPG adoption and draft budget submission occurred in 2023. Fiscal targets often exceed limits defined in fiscal rules. Medium-term revenue forecasts are more credible. However, the Fiscal Council, intended to independently review fiscal policy, is not functional. The legal framework for capital budgeting has been improved, but it is too early to see the impact in practice.

Indicator 23. The annual budget is comprehensive and formulated within a credible and rolling medium-term framework, balancing the policy needs with the fiscal constraints		2024 indicator value	53/100
Sub-indicators		Points	
1.	Budget calendar	3/5	
2.	Preparation of the medium-term fiscal framework	11.3/15	
3.	Strength of the medium-term budget framework	11/25	
4.	First-level budget organisations	0/5	
5.	Oversight of fiscal discipline by an independent institution	1/5	
6.	Annual budget documentation	9.7/15	
7.	Budget classification	3.5/5	
8.	Planning and budgeting for capital investment projects	6/10	
9.	Parliamentary scrutiny of the annual budget	2/10	
10.	Public access to budget information	5/5	

The LBFR is the main legislation for the budget system. Three key documents guide budget management – the Government's Fiscal Strategy, the FPG and the annual budget.<sup>233</sup> According to the law, the Fiscal Strategy is being prepared and adopted by the Parliament for the duration of the Government's mandate. However, the Government in place since 2020 has not established a Fiscal Strategy. The current government published its draft Fiscal Strategy on 18 July 2024 for public consultations with the aim of adoption in the third quarter of 2024.<sup>234</sup> The purpose of the Fiscal Strategy is to reflect Government's views on macroeconomic and fiscal policy and to set up fiscal and budget priorities. The FPG are guided by the Fiscal Strategy and adopted annually. These guidelines cover a four-year period and include medium-term economic and fiscal policy goals, macroeconomic projections, fiscal indicators and social expenditures. The FPG also guide annual budget preparation.

<sup>233</sup> Law on Budget and Fiscal Responsibility, Articles 17, 18, 34.

<sup>234</sup> One of the consequences of the late adoption of the Fiscal Strategy in 2024 is that the FPG have not yet been adopted, although legal deadlines passed in April 2024, meaning that the budget for 2025 is being developed without the medium-term framework.

The LBFR<sup>235</sup> establishes the annual budget calendar with key deadlines: the Government adopts the FPG in April, the MoF submits the draft state budget law to the Government on 16 October, which forwards it to the Parliament by 15 November, and Parliament must adopt the budget by 31 December. According to the budget circulars in 2023, budget organisations had sufficient time, more than six weeks, to prepare their budget bids. However, the official budget calendar was not respected in full during the preparation of the draft budget for 2024 due to the late adoption of the FPG by the Government and the late submission of the draft budget to the Parliament.<sup>236</sup>

Progress has recently been achieved in the development of the content of the FPG. Since 2022, the MoF has included sector-based policy information, objectives and tasks per policy programmes and new policy information in the guidelines.

Fiscal rules are defined in the legislation<sup>237</sup> with strict correction procedures. However, fiscal targets defined in the FPG do not meet fiscal rules. For example, the FPG for 2023-2026 established a budget deficit target for 2024 (4.4% gross domestic product [GDP]) and 2025 (4.1% GDP), while the deficit rule is 3% GDP. (Table 4).

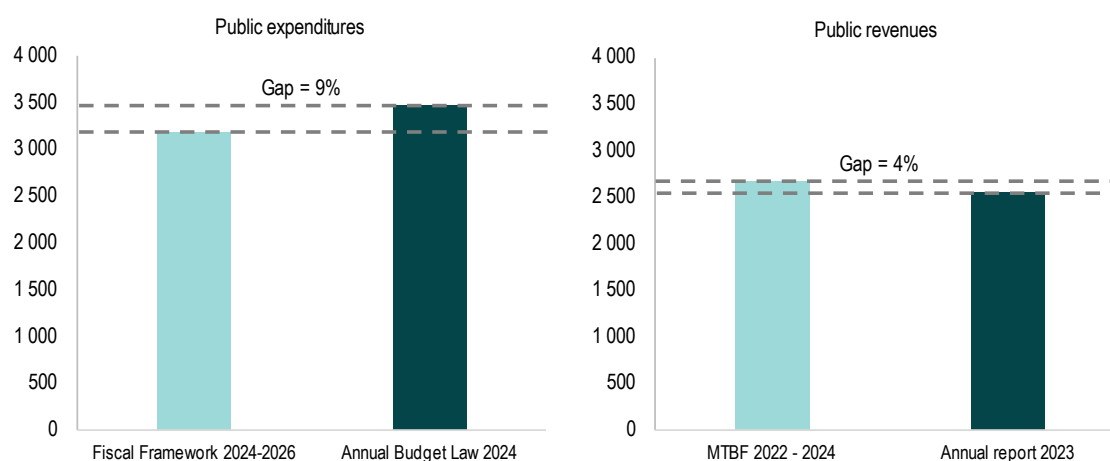
**Table 4. Established budget targets against legal fiscal targets**

Legal fiscal target	Established budget deficit target	Established budget deficit target
	2024	2025
3% GDP	4.4% GDP	4.1% GDP

Source: Law on Budget and Fiscal Responsibility and Fiscal Policy guidelines for 2024 and 2025

The credibility of medium-term revenue forecasts is being improved. Variation between the total revenue forecasted two fiscal years ago and the outturn of 2023 is 4% lower than planned. (Figure 52).

**Figure 52. Credibility of medium-term revenue and expenditure forecasts, 2022-2024**



Source: Fiscal Policy Guidelines for 2022-2024; Annual Report 2023.

<sup>235</sup> LBFR, Articles 29, 30, 32, 33.

<sup>236</sup> Parliamentary elections in 2023 and the new Government being voted in only on 31 October 2023 were the reasons given for the late submission to the Parliament.

<sup>237</sup> LBFR, Article 29.



However, medium-term forecasts are only partially credible. The FPG for 2024-2026 for the fiscal year 2023 had established an aggregated expenditure ceiling of EUR 3 182 million. In the annual budget for 2024, it was adopted at EUR 3 478.3 million, so the variation resulted in 9%. The average deviation of disaggregated ceilings for five first-level budget organisations established in the MTBF and the annual budget law is 8.9%.

There are 47 first-level budget organisations in the annual budget law.<sup>238</sup> Of these, 20 are ministries and 7 constitutional bodies, while 20 first-level budget organisations are independent bodies (14) and state funds (6). The 14 independent bodies consist of so-called professional institutions, implementing agencies and non-constitutional oversight bodies which are not under their parent ministries.

The authority mandated to review government fiscal policy is not yet functioning. Since April 2023, legislation<sup>239</sup> has provided for the establishment of a fiscal council. This independent advisory body is intended to assess the credibility of fiscal policy and improve fiscal responsibility. However, despite this legislative provision, the fiscal council has not yet been established and is not functioning. Since 2014, the SAI is mandated to assess the application of the criteria of fiscal responsibility, including fiscal rules, as established in the LBFR.<sup>240</sup> However, this is only an *ex-post* assessment and does not fully cover the role of the fiscal council.

The annual budget documentation is relatively comprehensive but lacks medium-term projections of general government budget aggregates and information on tax expenditures.

Some progress has been achieved in the development of capital budgeting. In March 2023, the Government adopted the new decision on the preparation of the capital budget,<sup>241</sup> which replaces the government decision on the capital budget of 2021<sup>242</sup> and aims to improve the procedures and defined conditions for the preparation of the capital budget. According to the regulation on the capital budget, proposed projects financed from the capital budget must have a feasibility study, total costs, and expected benefits (cost-benefit analysis) for all projects above EUR 5 million. However, an independent appraisal is still not required for large capital projects.

In the process of adopting the 2024 annual budget, Parliament adopted a Conclusion<sup>243</sup> obliging the Government to report on the implementation of the capital budget on a quarterly basis. In return, the Government formed its first Public Investment Council in January 2024 to co-ordinate the preparation of reports of public infrastructure projects financed from the capital budget. According to the provisions of the LBFR, Parliament has less than two months to debate and vote on the annual budget law. In practice, it sometimes has even less time for this procedure, i.e. the draft budget 2024 was submitted by the Government on 12 December and adopted by Parliament on 28 December. It is worth mentioning that although the Parliamentary Rules of Procedure<sup>244</sup> do not foresee any special procedure for the deliberation of the draft budget proposal; in practice, the Committee for Economy, Finance and Budget does have a deliberation in a special format, where the first day of discussions is dedicated to a form of public hearing with representatives from government institutions, civil society and academia.

The Parliamentary Budget Office contributes to budget transparency by drafting and publishing a citizen-friendly summary before and after budget adoption.

<sup>238</sup> Annual Budget Law for 2023.

<sup>239</sup> LBFR, Article 27.

<sup>240</sup> LBFR, Articles 19 and 20.

<sup>241</sup> Government Decision No. 067/21 of 22 June 2021 on the creation of the capital budget and determination and valuation criteria for the selection of capital projects.

<sup>242</sup> Ibid.

<sup>243</sup> Conclusion 33.23-8/187 EPA109 XXV111.

<sup>244</sup> The Rules of Procedure of the Parliament of Montenegro, No. 00-32-1/21-1/15, EPA 134 XXVII, dated 22 July 2021.

### Principle 24: The government supports budget implementation and service delivery by ensuring liquidity in the short and medium term.

Efficient and effective tax collection faces challenges, such as low online personal income tax declarations (9.3% in 2022) and the lack of a tax compliance improvement plan. Commitment control is not fully effective. A debt management strategy is not in place, but a new one for 2024-2027 is planned. Debt reports are published annually but lack explanations for deviations from forecasts.

Indicator 24. Budget implementation and service delivery is supported by cash availability in the short and medium-term		2024 indicator value	58/100
Sub-indicators		Points	
1.	Efficiency of tax collection	5/10	
2.	Effectiveness of tax collection	11/20	
3.	Treasury/cash management	10/10	
4.	The reliability of financial data is supported regular reconciliation of accounting information	2/5	
5.	Cash flow management	4/5	
6.	Commitment controls are established	3/10	
7.	Management of expenditure arrears	5/10	
8.	Debt management	5/10	
9.	Government debt risk mitigation	7.2/10	
10.	Reporting on public debt	6/10	

While the cost of tax collection is not high – the ratio of aggregated tax administration costs of revenue collected is 0.78% – the ratio of personal income tax declarations submitted online in 2022 was 9.3%. The low ratio of electronic declarations is related to an undeveloped IT system that allows online submission only for physical persons who have individual businesses. Second, due to frequent reorganisations of the tax administration and customs during the last three years, a tax compliance improvement plan has not been developed and implemented. Despite these limitations, the aggregate tax outturn in 2023 was successful. Actual tax collections exceeded planned revenues by 20%, showing that the MoF was too conservative in the planning phase. The stock of tax arrears in 2023 was relatively high, resulting in 34%. Tax administration and customs transfer the collections daily into the Treasury Single Account (TSA) according to the order of the MoF No. 123.23 and 81/24, “Order of the way of paying of public revenues”. The same order provides daily consolidation of all government bank balances, and budget income and expenditures are recorded in the general ledger daily.

According to the LBFR, Article 9, funds that are in the function of the state or municipal budgets shall be recorded in the TSA. However, there is an indicative amount of revenue of EUR 40 million for some public institutions that are still not consolidated in the treasury.<sup>245</sup> No IT audit was carried out on the treasury financial management information systems in the last three years. An aggregate cash flow forecast is prepared for the fiscal year, broken down by quarters and months, but does not provide profiles for each first-level budget organisation by current, capital and own resources.

The commitment control system is not fully operational, as evidenced by outstanding liabilities amounting to EUR 396 647.49 above the approved annual budget in 2022.<sup>246</sup> While this is not a high level, it still

<sup>245</sup> Articles 42 and 68 of the LBFR allow public institutions to use their own revenue, bypassing transferring to TSA.

<sup>246</sup> See report of the SAI on the audit of the implementation of the budget for the year 2022, page 66.

shows that the system does not prevent overcommitments. Data on arrears are collected quarterly and published annually, with the level of arrears at the end of 2022 at 0.38% of total expenditure.

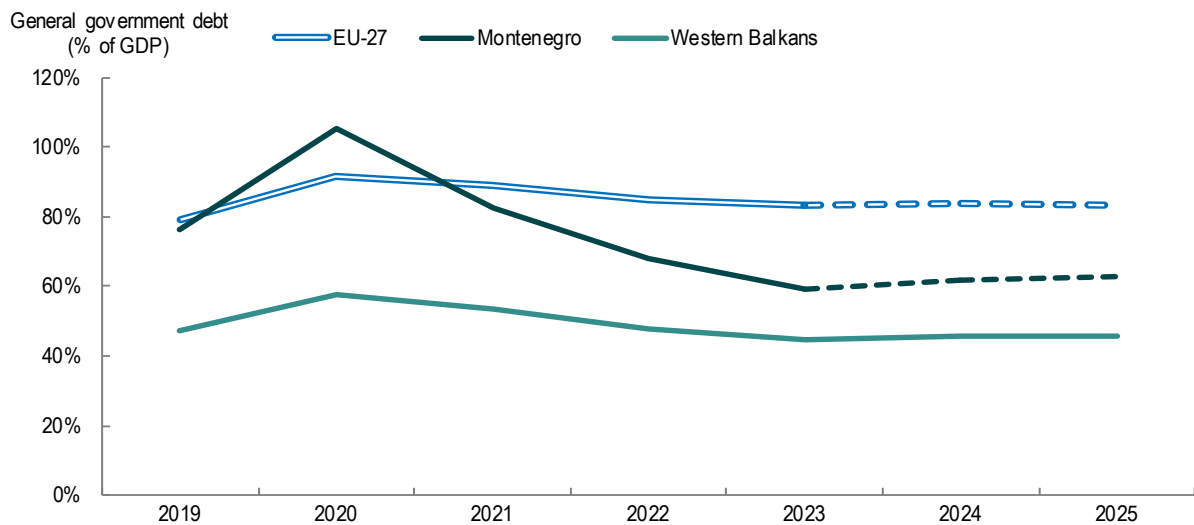
During the time of assessment, there was no debt management strategy in place. The last medium-term debt management strategy was adopted for 2018-2020. The MoF plans to approve a new mid-term debt management strategy for 2024-2027 by the end of 2024. Currently, debt analysis and forecasts for the next four years are disclosed in the FPG. However, debt considerations cover only central government debt. Debt limits are defined in the LBFR,<sup>247</sup> and annual borrowing and state guarantee limits are determined in the annual budget law.

Local governments can take long-term loans and provide guarantees with the government's prior approval. Local debt is about 0.95% of GDP or 22% of local government revenues. According to the LBFR, state-owned enterprises (SOEs) can take long-term loans with prior approval of the Government. The MoF monitors SOEs' debt only to the extent of state guarantees provided.

The legislation provides that the MoF consolidates the general government debt records into an annual general government debt report, which is published within 90 days of the end of the fiscal year. The most recent annual debt report<sup>248</sup> was published in March 2024 and includes data on the stock and trend of general government debt, debt quality, debt repayments, local self-government debt and data on state guarantees. However, the report lacks explanations on the reasons for deviations from the forecasted targets presented in the FPG.

Public debt peaked in 2020 at 107% of GDP, fell back to 71% in 2022 and, according to the latest public debt report, as of 31 December 2023 amounted to 60.27%, which is still the highest in the Western Balkans but below the EU Member State average. (Figure 53).

**Figure 53. Debt development in the Western Balkans region**



Source: IMF database (2013-2018) and EU Candidate Countries' & Potential Candidates' Economic Quarterly, 2nd Quarter 2024 (2019-2025).

<sup>247</sup> LBFR, Article 50.

<sup>248</sup> Report on the General Government Debt of Montenegro, 31 December 2022.

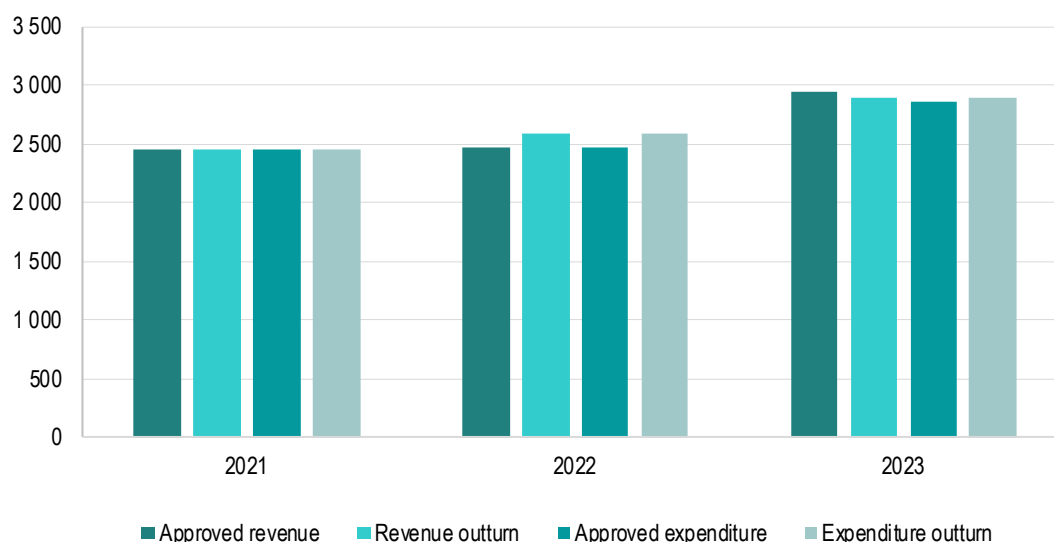
### Principle 25: The government implements the budget in line with estimates and reports on it in a comprehensive and transparent manner, allowing for timely scrutiny.

In recent years, the Government has aimed to improve budget credibility, achieving an average aggregate variance in 2021-2023 of 5.1% for revenue and 2.3% for expenditures, whereas the disaggregated variance is 11% for expenditures. Monthly in-year reports are prepared, but detailed data per ministry are lacking. The transition to accrual accounting, initiated in 2015, faces delays with a new start planned for 2027. The annual financial report in the form of a draft law for the implementation of the budget is comprehensive but has not been adopted by Parliament for the last two years. Fiscal risk management, monitoring responsibilities and accountability are not established.

Indicator 25. The government implements the budget in line with estimates and reports on it in a comprehensive and transparent manner, allowing for timely scrutiny		2024 indicator value	64/100
Sub-indicators		Points	
1.	Budget execution in line with appropriations	12.8/20	
2.	Fiscal targets	10/12	
3.	In-year reporting of government revenue, expenditure and borrowing	7/10	
4.	Clear accounting standards and consistency with international standards	4/8	
5.	Content of the annual financial report of the government	5/8	
6.	Reporting on capital investments	8.7/9	
7.	Monitoring and reporting on fiscal risks	1.5/9	
8.	Annual reports of state-owned enterprises, extra-budgetary funds and local government	4/10	
9.	Transparency and quality of the annual financial report	11/14	

The Government has been making efforts in recent years to improve budget credibility and to implement the annual budgets in line with estimates. The average variance of the actual revenue outturn against budgeted targets in 2021, 2022 and 2023 was 5.1%, and the average variance on the expenditure side for these years was 2.3 %, which indicates relatively good performance. Conversely, the disaggregated variance is 11% for expenditures over these three years.<sup>249</sup> The credibility of aggregated revenue and expenditure plans in 2021-2023 are presented in Figure 54.

<sup>249</sup> Calculated across the ten largest direct budget organisations.

**Figure 54. Credibility of aggregated revenue and expenditure plans, 2021-2023**

Source: Annual Budget Laws 2021, 2022, 2023; Annual Budget Reports 2021, 2022, 2023.

Legislation provides a high level of budget flexibility. According to the LBFR,<sup>250</sup> spending units can make in-year budget adjustments without parliamentary authorisation of up to 10% of their appropriations between individual budget lines. This rule is being respected by the Government, and the SAI has not reported violations over the past two years. The credibility of budget plans can also be confirmed by rare in-year budget law amendments passed through the Parliament. In 2023, the Parliament passed one budget amendment, which took place on 28 November 2023.

Fiscal rules are based on EU benchmarks and are fixed in the LBFR.<sup>251</sup> They aim to limit public debt up to 60% of GDP and budget deficit up to 3%. Meanwhile, the fiscal targets are being planned above these limits: FPG for 2023-2026 set the target for public debt for the fiscal year 2023 up to 68.47% GDP and for general government budget deficit, 7.2% GDP. Both fiscal targets were fulfilled in 2023. Thus, the Government should consider being more ambitious when discussing fiscal goals in the new budget planning period.

In-year reports are being prepared and published monthly. They show all central government transactions at an aggregated level. However, data on budget implementation for each ministry or first-level budget user are not available in the in-year reports.

In 2015, the Government adopted the Strategy for the Transition of the Public Sector to Accrual Accounting. The Law on Public Sector Accounting was adopted in 2019, and implementation was originally envisaged in 2022. Key pillars of the reform include training accountants in the public sector, developing the legal framework, and improving the accounting IT system to adopt new accounting methodologies. According to the MoF, due to the COVID-19 crisis and government changes, the accounting reform has not advanced.<sup>252</sup> The MoF now envisages implementing the reform in 2027 in accordance with the Law on Accounting in the Public Sector.

<sup>250</sup> LBFR, Article 45.

<sup>251</sup> LBFR, Article 20.

<sup>252</sup> See the analysis and recommendations in Swarbrick, A. and F. Pot (2022), "Public accounting reforms in the Western Balkans and European Neighbourhood: Guidance for SIGMA Partners", *SIGMA Papers*, No. 65, OECD Publishing, Paris, <https://doi.org/10.1787/505f903e-en>.

Clear accountability arrangements for identifying, estimating, and monitoring specific fiscal risks have not been established in the MoF yet, and it does not have an ownership policy for managing fiscal risks. The Ministry plans to conduct an annual analysis of the financial performance of SOEs, where government shares constitute more than 50%, based on financial reports submitted to the tax administration. Therefore, a consolidated report on the financial performance of the SOE sector is not available.

The Government has started to reform various aspects of the SOEs under the umbrella of a Reform of State Enterprises and Economic Reform Programme. In February 2024, a register was established regarding the SOEs where the state is the majority shareholder. There are currently no plans in place regarding solutions for the mapping of the remaining public enterprises. The former law on SOEs was abolished in 2020, leading to a legal vacuum regarding state ownership policy. However, regulatory framework analysis is currently ongoing by the Department for Fiscal Risks of Public Companies within the MoF.<sup>253</sup>

The annual financial report is comprehensive at a central government level, with notes and explanations for variations from the original budget allocations, an analysis of liabilities, state guarantees and expenditure arrears. In recent years, progress has been made by including non-performance information linked to the budget programmes.

According to legislative provisions,<sup>254</sup> the Government shall submit the annual financial report to the SAI by the end of June, and the SAI submits its audit opinion to the Parliament on 15 October, while the Government submits the annual financial report to Parliament by the end of September. In fact, the annual financial report for 2022 (in the format of the draft law on the implementation of the budget 2022) was originally submitted to the Parliament on 2 October 2023, and the SAI audit report on the annual financial statement for 2022 on 16 October 2023. After the new Government was voted in on 31 October 2023, it withdrew, for administrative reasons, the draft law from the parliamentary procedure, along with all other laws that the previous government submitted. It was resubmitted (unchanged) to the Parliament on 23 November 2023 and discussed on 14 December 2023.

The SAI report is discussed in the Parliamentary Committee for Economy, Finance and Budget without the involvement of sectoral committees and presented at the Plenary of the Parliament. For the budget execution 2022, the SAI provided a positive (unqualified) opinion with an emphasis on the matter of the financial audit and a negative (adverse) opinion on the compliance audit part.<sup>255</sup> For the budget implementation in 2021, both the financial and the compliance audit opinions of the SAI were negative (adverse).<sup>256</sup> Consequently, for both years, the Parliament did not adopt the law on the implementation of the budget.

<sup>253</sup> This is the entity responsible for identifying, estimating, analysing, monitoring and reporting on SoEs' fiscal risks.

<sup>254</sup> LBFR, Article 67.

<sup>255</sup> Audit Report on the Proposal Law on Final Statement of Accounts of the State Budget of Montenegro for 2022.

<sup>256</sup> Ibid.

## Internal control and audit

### Principle 26: Public administration bodies manage resources in an effective and compliant manner to achieve their objectives.

Improvements in the area of internal control and internal audit relate to the establishment of internal-control-related development goals in the PAR Strategy 2022-2026 and the PFM Reform Programme 2022-2026. Regardless of a detailed and comprehensive legal and methodological base, implementation practices of internal control systems by budget users are inconsistent and often the responsibility of only specific functions in organisations. A wider understanding of the objectives and principles of internal control and appreciation of internal audit are lacking. However, the weaknesses are not fully addressed in the strategies foreseeing measures for the development of internal control.

Indicator 26. Adequacy of the operational framework for internal control and its functioning in practice		2024 indicator value	41/100
Sub-indicators		Points	
1.	Regulatory framework and development policy for internal control	7.4/10	
2.	Co-ordination of internal control	8.8/10	
3.	Adequacy and effectiveness of management and control systems in place	4.8/15	
4.	Managerial accountability	7.1/15	
5.	Reporting on internal control	5/10	
6.	Regularity and completeness of risk management practices	2/15	
7.	Institutional accountability	3.7/12	
8.	Irregularity and fraud management	2.6/13	

Long-term internal control and audit development goals are established in the PAR Strategy 2022-2026 and the PFM Reform Programme 2022-2026. The measures are narrow and mainly intended for implementation by the MoF. Nevertheless, the implementation rate remains low, at 56% for internal control and managerial-accountability-related activities.

Establishment of the system of internal control is regulated under the 2018 Law on Governance and Internal Controls<sup>257</sup> (PIFC Law) and numerous by-laws (rulebooks and methodologies mostly from 2019-2020, with Methodology on Internal Reporting from 2023 and Guidelines for the Management of Key/Strategic Risks in the Public Sector from 2022). Other topical laws<sup>258</sup> may establish control principles in thematic areas. The PIFC Law is planned to be amended in 2024, with one of the objectives being the elimination of any existing duplications with other laws,<sup>259</sup> also requiring revision of various by-laws.

All public sector entities are required to establish internal control under the overall responsibility of the head of the entity. The PIFC Law does not establish specific requirements for different public entities. Public

<sup>257</sup> Official Gazette No. 075/18 of 23 November 2018.

<sup>258</sup> Including the LBFR (latest amendment in Official Gazette No. 125/23, 31 December 2023) and Law on Prevention of Corruption, Official Gazette Nos. 53/2014 and 42/2017.

<sup>259</sup> Though full harmonisation analysis was outside the scope of this assessment, it was noticed that the PIFC Law and the Law on Prevention of Corruption currently create two parallel systems for irregularity and managing whistleblower signals.

entities<sup>260</sup> are required to submit annual reports on governance and control (annual internal control report) to the MoF, prepared based on a self-assessment of the functioning of internal control. In 2023, 92% of budget users submitted annual reports, and 65.9% performed a self-assessment.<sup>261</sup>

The PIFC Law assigns the harmonisation and co-ordination of the development of the governance system and internal controls in the public sector to the MoF, as further delegated to the CHU. The public entities' annual internal control reports form one of the two pillars that provide input to the CHU annual reports to the Government on management and internal controls. Further input is derived from CHU's own reviews of the quality of governance and control processes in selected public entities. The CHU recommendations in the area of internal control proposed to and adopted by the Government in 2023 were related to updating risk registers and conducting self-assessments.

Even though 93% of public entities<sup>262</sup> reported on the establishment of the internal book of procedures, only 37% adopted a plan for improving management and controls for the reporting period.<sup>263</sup>

Public entities' strategic objectives derive from numerous sector strategies. However, there is no coherent system of operational goal setting and performance indicators at the public institution level. Nor are there consistent reporting practices to senior management on the achievement of those goals and indicators. Reporting on budget execution to the MoF is regulated and performed by budget users on a semi-annual and annual basis.

Ministries' co-ordination of budget preparation within their sectors has improved. However, 20 of the 47 first-level budget organisations still bypass the parent entities in budget planning and submit their budget proposals directly to the MoF.<sup>264</sup> Commitment control is not yet fully operational and systematic, as demonstrated by the fact that 62 out of 91 central government bodies<sup>265</sup> had arrears as of 31 December 2023.

According to the PIFC Law,<sup>266</sup> the heads of public entities are provided an option to delegate certain tasks to their subordinates. In practice, delegation of authority to the level of budget programmes remains weak, with actual financial decisions remaining in the hands of narrow top management.

Risk management shows slow improvement in public sector entities. While in 2015, the risk register was in place in only 39 budget users, in 2023, 89 budget users indicated the existence of a risk register (92% of those submitting annual internal control reports). However, only 78% update the risk register regularly and only 34% of those did so in 2023.<sup>267</sup> Analysis of the five sample institutions' risk documentation confirms that risk management practices vary, and it is still essentially a formalistic exercise.

<sup>260</sup> The reporting obligation does not apply to the Assembly of Montenegro, the Constitutional Court, courts, the Judicial Council, the State Prosecutor's Office, the Prosecutor's Council, the Central Bank of Montenegro, the SAI, the Protector of Human Rights and Freedoms of Montenegro, the National Security Agency, independent regulatory bodies, joint stock companies and other legal entities in which the state or local self-government units have a majority share (PIFC Law, Article 18).

<sup>261</sup> Sections 3.2 and 3.4.5 of MoF (2024), *Consolidated Report of Management and Internal Controls in the Public Sector of Montenegro for the Year 2023*, June.

<sup>262</sup> Some 93% of those that submitted annual internal control reports; based on Annex 2 of MoF (2024), *Consolidated Report of Management and Internal Controls in the Public Sector of Montenegro for the Year 2023*, June.

<sup>263</sup> Based on Annex 2 of MoF (2024), *Consolidated Report of Management and Internal Controls in the Public Sector of Montenegro for the Year 2023*, June.

<sup>264</sup> According to the Budget Law for 2024.

<sup>265</sup> According to the Budget Law for 2024.

<sup>266</sup> PIFC Law, 2018, Article 8.

<sup>267</sup> MoF (2024), *Consolidated Report of Management and Internal Controls in the Public Sector of Montenegro for the Year 2023*, June, p. 17.



The establishment of a system to report and process irregularity is progressing. In 2023, 95% of budget users reported the appointment of an employee responsible for receiving irregularity/whistle-blowing reports.<sup>268</sup> The review of related documentation of five sample institutions also shows that the institutions have started to establish procedures for regulating internal reporting and management of irregularity signals. However, some of those institutions indicate a lack of receipt of any irregularity reports, and there is no evidence of co-ordination between institutions in this area.

Updating asset information appears to be in place both procedurally and in practice. Inventory committees are obliged to prepare inventory reports that form the basis for updating the asset registry. However, one of the findings of the SAI<sup>269</sup> has been that the records on state property kept by state authorities are not complete.

Line ministries are responsible for supervising the SOEs in their respective sectors. Supervision involves revision of financial plans of the majority of SOEs by the MoF and the concerned line ministries, but without agreements on key financial performance indicators and business plans. The MoF carries out an annual economic-financial analysis of the performance of SOEs on the basis of their financial statements and monitors and reports on fiscal risks arising from SOE operations in the register of SOEs, which is published on the Government website.

### Principle 27: Internal audit improves the management of public administration bodies.

Various developments have taken place in terms of implementing international audit standards-compliant internal audit. Two centralised internal audit units have been established and fully functional since 2021-2022, one auditing EU funds and another performing IT audits. Certification and professional development programmes are functioning well, and there is progress in implementing the requirements of the quality assurance and improvement programme. However, internal audit units tend to be understaffed, show low productivity and the implementation rate of recommendations is only at a moderate level and decreasing.

Indicator 27. Adequacy of the operational framework for internal audit and its functioning in practice		2024 indicator value	71/100
Sub-indicators		Points	
1.	Adequacy of the regulatory framework for internal audit	10/10	
2.	Co-ordination, development and guidance of the internal audit system	10/10	
3.	Organisational capacity for internal audit	2.8/10	
4.	Independence and objectivity of internal audit	9.6/15	
5.	Strength of planning of internal audit in budget organisations	6/10	
6.	Quality of audit reporting	4.5/10	
7.	Follow-up and implementation of audit recommendations	13.6/15	
8.	Certification and professional development	10/10	
9.	Existence of a system for quality assurance of internal audit	6/10	

The PIFC Law regulates the scope of public sector internal audit work; general requirements for planning, conducting and reporting of internal audit results; independence requirements; annual reporting on internal audit work to the CHU; rights and responsibilities of public sector internal auditors; management's responsibilities as well as certification and professional development system and requirements. It also

<sup>268</sup> Idem.

<sup>269</sup> SAI (2024), *Summary Annual Report on Performed Audits and Activities of the State Audit Institution of Montenegro for Period October 2022 - October 2023*, <https://www.dri.co.me/doc/DRI%20GI%202022-2023%20konacni.pdf>.

covers the establishment and functioning of internal audits, with different organisational arrangements for establishing an internal audit function. The Code of Ethics of the Institute of Internal Auditors applies to all public sector auditors.

The methodological framework for internal audit, established in the MoF regulations from 2019-2020, complies with the 2017 international professional practice framework (IPPF). The CHU is planning steps to ensure the revision of the methodologies in line with the 2024 Global Internal Audit Standards this year.

The PFM Programme 2022-2026 includes measures for the improvement of the internal audit function, including in SOEs, and to strengthen CHU's capacity. The implementation rate of the activities programmed for 2023 is high (90%).

All public sector entities shall be subject to internal audit. The heads of public entities shall either establish the internal audit unit (IAU) within that public entity or conclude an agreement with another entity's internal audit for auditing that public entity.<sup>270</sup> The IAU shall have, as a minimum, three auditors. A by-law establishes the list of public entities where establishing an IAU is mandatory, as well as which entities are subject to audit by other institutions' IAUs.<sup>271</sup> Accordingly, by the end of 2023, mandatory IAUs were established in 20 out of 23 central government organisations and in all 15 local government organisations. In addition, seven public entities established the IAUs voluntarily. According to the CHU, these IAUs cover around 97% of public institutions. The information systems and EU funds are audited by specialised units, the former within the Ministry of Public Administration and the latter within the MoF. Although IAUs are well established in the public sector, they tend to be understaffed. In 2023, only nine IAUs fulfilled the minimum staffing requirements.<sup>272</sup> The CHU has addressed this problem by pushing for a salary top-up for internal auditors, which was approved, with the objective of ensuring higher retention of internal auditors.

Some 87 internal auditors' positions are filled across all central and local government IAUs, which is a slight decrease since 2021.<sup>273</sup> Furthermore, in 2023, of the 139 audits planned, 111 were carried out (79.9%), which represents a steady increase since 2021. However, the ratio of audits per auditor carried out annually has steadily decreased from 2.1 audits per auditor in 2016 to only 1 audit per auditor in 2021 and since then has only increased very slightly to 1.3 audits per auditor in 2023. (Table 5).

<sup>270</sup> PIFC Law, 2018, Article 49.

<sup>271</sup> Decree on the Establishment of Internal Audit in the Public Sector, Official Gazette Nos. 96/2021, 134/2022.

<sup>272</sup> Ministry of Finance (2024), *Consolidated Report of Management and Internal Controls in the Public Sector of Montenegro for the Year 2023*, June, Section 4.2.1 and Annex 3.

<sup>273</sup> *Idem*, Section 4.2.2.

**Table 5. Number of internal auditors, internal audits and recommendations issued by the internal audit in 2016-2023**

Year	Number of auditors	Trend	Number of audits	Trend	Audits per auditor	Trend	Number of audit recommendations	Trend
2016	77		160		2.1		710	
2017	78	↗ 1.3%	140	↘ 12.5%	1.8	↘ -13.6%	703	↘ 1%
2018	84	↗ 7.7%	133	↘ 5%	1.6	↘ -11.8%	634	↘ 9.8%
2019	84	=	156	↗ 17.3%	1.9	↗ 17.3%	777	↗ 22.6%
2020	87	↗ 3.6%	107	↘ 31.4%	1.2	↘ -33.8%	519	↘ 33.2%
2021	90	↗ 3.4%	89	↘ 16.8%	1.0	↘ -19.6%	514	↘ 0.9%
2022	89	↘ 1.1%	97	↗ 9%	1.1	↗ 10.2%	453	↘ 11.9%
2023	87	↘ 2.2%	111	↗ 14.4%	1.3	↗ 17.1%	552	↗ 21.9%

Source: Ministry of Finance (2023), *Consolidated Report of Governance and Internal Controls in the Public Sector of Montenegro for the Year 2022*, Section 4.2 – Current Situation in the Field of Internal Audit, June 2023.

The legal framework ensures the independence of internal audit functions, as confirmed in the responses of internal auditors obtained during the SIGMA Survey of Public Servants on the functioning of public administration in the Western Balkans 2024. Results showed that 81% of surveyed internal auditors confirmed having unrestricted access to records, personnel and property during their audits.

Internal audit units prepare strategic and annual plans in conformity with standards and national legislation, using a systematic risk assessment covering all parts of the organisation; however, it does not always cover governance, risk management and control in the organisation.

Altogether, internal audit reports included 552 recommendations in 2023.<sup>274</sup> Despite the high level of acceptance of internal audit recommendations by the auditees, implementation remains at a moderate level (60.7%). At the end of 2023, 29.6% of the internal audit recommendations were still not implemented, presenting an increase of 25.5% compared to 2022. This can be influenced by the fact that internal audit findings, according to SIGMA's Survey of Public Servants among managers, are not always discussed with the auditees. Additionally, only 76% of managers think that internal audit recommendations contribute to improving their organisation, which could influence the impact of internal audits in public organisations.

The CHU and the Human Resource Management Administration have established a well-functioning continuous professional development programme and an effective certification programme. In total, 83 out of 87 internal auditors were certified at the end of 2023.

The internal quality assurance process is in the first stages of implementation. Guidelines on conducting both ongoing and periodic self-assessments exist, and internal auditors have been trained and have actively started to implement such quality reviews. Analysis of internal audit practices in sample institutions reveals, though, that in some cases, the concept of ongoing and periodic self-assessments is not fully understood, and the quality assessment exercise is thereby formalistic. Furthermore, there are cases of self-review (especially in IAUs with one internal auditor). An external quality assessment system is currently being developed under the supervision of the CHU.

Management's appreciation of internal audits is increasing, but on some occasions, internal auditors do not have full access to senior management, and internal audit reports are not considered.<sup>275</sup>

<sup>274</sup> Idem, Section 4.2.3.

<sup>275</sup> SAI (2023), *2022 Report on Ministry of Internal Affairs*, 24 October, <https://www.dri.co.me/doc/lzvje%C5%A1taj%20o%20reviziji%20Godi%C5%A1njev%20finansijskog%20izvje%C5%A1taja%20Ministarstva%20unutra%C5%A1njih%20poslova%20za%202022.%20godinu.pdf>.

## Public procurement

**Principle 28: Public procurement legislation, including public-private partnerships and concessions, is based on principles of equal treatment, non-discrimination, transparency, proportionality and competition, and supported by a sound governance framework.**

The legislation is well aligned with the *acquis*. Public sector, utilities, defence contracts and remedies are covered by the PPL, and concessions by the Public-private Partnership Law (PPPL). Both laws are quite detailed and are supported by a comprehensive body of secondary legislation.

Indicator 28.1. Quality of legislative framework for public procurement and PPPs/concessions		2024 indicator value	98/100
Sub-indicators		Points	
1.	Application of fundamental EU policy goals and Treaty principles across the spectrum of procurement legislation	30/30	
2.	Level of alignment of public procurement legislation for contracts above EU thresholds with the EU Directives	32.5/35	
3.	Level of alignment of PPPs/concessions legislation for contracts above EU thresholds with the EU Directives	15/15	
4.	Level of alignment of procurement legislation for contracts below EU thresholds with the EU Treaty principles	20/20	

The legal framework for public procurement is formed by the PPL,<sup>276</sup> the PPPL<sup>277</sup> and items of secondary legislation.<sup>278</sup> It is well aligned with the fundamental principles of public procurement and the applicable EU Directives.<sup>279</sup>

The public procurement legislation effectively transposes the corresponding EU Directives as well as the Remedies Directives. The PPL covers procurement in the public and utilities sectors. The Utilities Directive is thus covered by a separate chapter in the PPL rather than in separate legislation. Contracts for defence and security items covered by the Defence Directive are exempted from the PPL, with their procurement covered by a separate regulation on defence and security procurement.<sup>280</sup>

While the personal and material scope of the PPL is broadly aligned with the requirements of Directive 2014/24, a few discrepancies persist, such as certain exemptions that exceed what is permitted under the Directive.<sup>281</sup> These are now being addressed in the proceedings of the Chapter 5 working group.

<sup>276</sup> Official Gazette No. 074/19 of 30 December 2019, as amended in 2023.

<sup>277</sup> Official Gazette No. 073/19 of 27 December 2019.

<sup>278</sup> Complementing the PPL, at <https://www.gov.me/clanak/podzakkonska-regulativa-zakona-o-javnim-nabavkama>, and the PPPL, at <https://mia.gov.me/me/investiraj/javno-privatno-partnerstvo/>.

<sup>279</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement and repealing Directive 2004/18/EC; Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and repealing Directive 2004/17/EC; Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the Co-ordination of Procedures for the Award of Certain Works Contracts, Supply Contracts and Service Contracts by Contracting Authorities or Entities in the Fields of Defence and Security, and amending Directives 2004/17/EC and 2004/18/EC.

<sup>280</sup> Official Gazette No. 076/20 of 28 July 2020.

<sup>281</sup> Article 10 of the Directive; in particular, Articles 14(10), 14(16) and 14(17) of the PPL.

Significant amendments were made to the PPL in early 2023<sup>282</sup> introducing an obligation for the contracting authority to designate an official to monitor contract implementation, award criteria allowing the promotion of female entrepreneurship and adjusting the workings of the e-procurement system.

As a complement to these changes in the PPL, amendments were made to several items of secondary legislation to align them with the new wording of the PPL.<sup>283</sup>

The regulations of small-value procurement<sup>284</sup> are set out in a separate Rulebook on the method of carrying out simple procurement,<sup>285</sup> amended in 2023. The overall intention is to reduce the share of this type of procurement to 2% of total procurement by December 2026.<sup>286</sup> From EUR 8 000 to EUR 25 000 for goods and services and EUR 40 000 for works, a request for proposals must be published in the e-procurement system, with a deadline of no less than three days for submission of proposals, which also has to be done in the system. However, the Rulebook simply says “days”, not working days, which leads to a risk of misuse and creates undue advantages to those already in the know, as only they may have a reasonable chance to prepare a compliant proposal within the deadline. Amending this rule would thus complement other measures to meet the objective of reducing the share of this type of procurement to 2% of the total value of public procurement by the end of 2026. As a first step in this direction, new amendments to the Rulebook on the Method of Conducting Simple Procurement were adopted and entered into force on 6 June 2024, in order to set the maximum annual value of direct procurements at EUR 100 000.

The PPPL is aligned with the requirements of the EU Concessions Directive.<sup>287</sup> A separate Law on Concessions<sup>288</sup> is in place, but it only covers concessions in the sense of a right, against payment, to exploit natural and other public resources and does not transpose any aspects of the Directive. Key public procurement functions are allocated to designated, well-established entities. Monitoring mechanisms are in place. The law enables sustainability considerations, but little are put into practice.

<sup>282</sup> Official Gazette Nos. 003/23 of 10 January 2023 and 011/23 of 27 January 2023, as further described in the Public Procurement Department’s annual report for 2022, p. 9, available at <https://www.gov.me/dokumenta/6bc30bb6-7510-4d5c-99ab-618fb7278416>.

<sup>283</sup> These include the Rulebook on Amendments to the Rulebook on Detailed Criteria for the Establishment of the Commission for the Conduct of Public Procurement Procedure (Official Gazette Nos. 55/20 and 88/23), Book of Rules on Application Form for Qualification in Public Procurement Procedure (Official Gazette No. 71/23), Ordinance amending the Rulebook on the Methodology of Bid Evaluation (Official Gazette Nos. 74/20 and 71/23), Rulebook on the Form of Declaration of a Business Entity (Official Gazette Nos. 55/23 and 83/23), Rulebook amending the Rulebook on the Content of Bids in the Public Procurement Procedure (Official Gazette Nos. 71/20, 9/21 and 16/23), Rulebook on Forms for Conducting Public Procurement Procedures (Official Gazette No. 16/23), Rulebook amending the Rulebook on the Form of Public Procurement Plan (Official Gazette Nos. 55/20 and 114/23), Rulebook on the Manner of Conducting Simple Procurement (Official Gazette Nos. 16/23, 20/23, 36/23 and 114/23), Decree on the Manner of Planning and Conducting Centralised Public Procurement (Official Gazette Nos. 69/20, 105/20, 139/22 and 29/23).

<sup>284</sup> Less than EUR 25 000 for goods and services and EUR 40 000 for works.

<sup>285</sup> Official Gazette Nos. 016/23 of 10 February 2023, 020/23 of 22 February 2023, 036/23 of 29 March 2023 and 114/23 of 19 December 2023; see further in <https://www.gov.me/dokumenta/fcefc188-5969-478f-95c9-ade3bb5f2c86>.

<sup>286</sup> For more information, see <https://www.gov.me/clanak/obavjestenje-44>.

<sup>287</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the Award of Concession Contracts, OJ L 94 of 28 March 2014.

<sup>288</sup> Official Gazette Nos. 8/2009 of 4 February 2009, 073/19 of 27 December 2019 and 125/23 of 31 December 2023; see <https://www.gov.me/dokumenta/a0f88f59-904e-495b-bec3-fcbbe8a9fa7f>.

## Central institutions effectively support, steer and co-ordinate implementation, enforcement and monitoring of the public procurement system

Indicator 28.2. Central institutions effectively support, steer and co-ordinate implementation, enforcement and monitoring of the public procurement system		2024 indicator value	72/100
Sub-indicators		Points	
1.	Quality of the strategy and action plan for development of public procurement and PPPs/concessions	16/23	
2.	Green procurement performance	4/12 <sup>i</sup>	
3.	Performance of socially responsible procurement	6/12 <sup>i</sup>	
4.	Central institutions to develop and implement public procurement policy effectively and efficiently	20/22	
5.	Central institutions to develop and implement PPPs/concessions policy effectively and efficiently	12/12	
6.	Quality of monitoring and reporting on public procurement system	14/19	

Note: i = data not available or not provided.

The activities of the central institutions in the field of public procurement are guided by the Medium-term Strategy for the Development of Public Procurement for 2021-2025.<sup>289</sup>

Corresponding annual action plans have been published, and their implementation is being monitored and reported on.<sup>290</sup>

Although the regulatory framework in place allows for green and social objectives to be incorporated into all stages of the procurement cycle, no minimum requirements or tools facilitating the implementation of green or socially responsible public procurement are available. No relevant data are collected.

The institutional framework remains unchanged since the beginning of 2019, when the Department of Public Procurement Policy (DPP) was established in the MoF. In addition to its responsibility for general policymaking in public procurement, including PPPs/concessions, it is also the competent body for drafting legislation, co-ordinating the implementation of the public procurement system, monitoring the practice of contracting authorities and monitoring the compliance of legislation governing public procurement with the EU legislation. Recently, its remit has been expanded to cover investment oversight, and its official name has been changed to the Department of Management of Public Investments and Public Procurement Policy.<sup>291</sup>

A unit of the DPP currently provides education and training in public procurement. It delivers training to contracting authorities on the subjects covered by the examinations for the compulsory certification of procurement officials.<sup>292</sup> The DPP trainers are knowledgeable and hold many training events. However,

<sup>289</sup> The English version is available at <https://ujn.gov.me/wp-content/uploads/2022/04/Strategy-for-Enhancing-PP-and-PPP-Policy-2021-2025.pdf>; date of publication not indicated.

<sup>290</sup> For example, <https://www.gov.me/clanak/strateski-dokumentj>; the strategy implementation report for 2023 can be found at <https://www.gov.me/dokumenta/9e9442fa-2e4f-40e2-9b90-7b917281a821>.

<sup>291</sup> As set out in the Regulation on the Internal Organisation of the MoF, pp. 32 ff, <https://wapi.gov.me/download/0514b1b2-8831-4d32-98f7-3574b7745a22?version=1.0>.

<sup>292</sup> Article 47 of the PPL: each contracting authority is obliged to designate at least one person who performs the duties of a public procurement officer. This person must have a certificate of passing the professional examination for work in public procurement.

the relatively large number of contracting authorities (681 at the end of 2023;<sup>293</sup> around 1 for every 1 000 inhabitants) means that a correspondingly large number of officials must be trained. However, the limited resources restrict the range of subjects taught and the depth of training, focusing on preparation, tendering, evaluation and contracting.

Central purchasing continues to fall under the remit of the Property Administration, which has a separate department set up for the purpose. The current Property Administration was formed at the beginning of 2024 by splitting the former Administration for Real Estate and State Property (sometimes also referred to in English as the Administration for Cadastre and State Property) into two separate entities, one dealing with real estate registration and related cadastral services and the other with the management of state property and centralised purchasing. However, a regulation on the organisation and work of the new Property Administration is still only available in draft.<sup>294</sup> Nevertheless, with the exception of one person, all staff members previously engaged in work on centralised purchasing remain in their positions in the new organisation.

All procurement of items on a list established by the Government has to be carried out by central purchasing. However, the Property Administration is not working to the full satisfaction of the contracting authorities consulted by SIGMA, and central purchasing remains at a quite low percentage (around 2%) of public procurement. Nevertheless, the analysis of the situation carried out by the MoF early 2024 led to some recommendations which could now be reviewed, revised and put into practice. Operating under the policy guidance of the MoF, the Montenegrin Investment Agency (MIA)<sup>295</sup> remains the body in charge of PPPs, whether as public contracts or concessions. It was established as provided in the PPPL, adopted in late 2019, and has been active in attracting foreign investment and preparing PPP/concession operations. However, at present, no such contracts have been concluded under the 2019 PPPL, and only one operation is being prepared. The MIA and the MoF continue their efforts to train MIA staff and interested contracting authorities and to attract interest from prospective local and foreign private-sector partners. The Commission for Protection of Rights in Public Procurement Procedures (CPRPPP) continues as the procurement review body.<sup>296</sup> New members have been appointed, and the review body is now taking steps to improve the quality of its decisions, particularly to ensure a higher degree of consistency with past decisions. The CPRPPP carefully argues and documents each one of its decisions, which are publicly available. However, their format makes it challenging to identify and analyse common features and trends across a range of decisions and over time.

Monitoring of public procurement is carried out partly by the DPP and partly by the public procurement section of the Administration for Inspection Affairs (AIA).<sup>297</sup> The focus has mainly remained on the observation of the procedural prescriptions in the PPL and the Rulebook for Small-Value Procurement, in addition to some attention to biased specifications and other issues in individual cases. The early and the late stages of the procurement process – needs identification, planning, preparation; contract management and performance evaluation – remain little monitored. In January 2024, the Government decided to propose changes to the inspection regime in the form of dissolution of the AIA and assignment of its inspectors to the ministries and other entities corresponding to their field of activity. The formal adoption of the relevant amending legislation is still pending.

Procurement plans, tender documents, contracts and reports are published on the website<sup>298</sup> of CeJN, the e-procurement system, but the data available are not adequate for allowing systematic analysis of the extent to which the original plans and objectives are being met by the actual procurement outcomes.

<sup>293</sup> Annual report for 2023, p. 7; see also a complete and detailed list at <https://cejn.gov.me/ca-organization-list>.

<sup>294</sup> The draft is available at <https://www.gov.me/dokumenta/1995a05f-9ab8-47d3-9daa-41594965d169>.

<sup>295</sup> More information about the MIA is available at <https://mia.gov.me/me/>.

<sup>296</sup> As provided in the PPL, Articles 198-208 and the internal Rulebook on the organisation, etc. of the CPRPPP; see <https://kontrola-nabavki.me/o-nama/sistematizacija>.

<sup>297</sup> PPL, Article 209; and <https://www.gov.me/clanak/odsjek-za-inspekciju-za-javne-nabavke>.

<sup>298</sup> Accessible at <https://cejn.gov.me/landingPage>.

To complement the information extracted from the CeJN, the DPP publishes semi-annual and annual reports on public procurement.<sup>299</sup> These reports summarise and analyse data uploaded to or generated in the CeJN.

### Principle 29: Contracting authorities conduct public procurement operations, including public-private partnerships, efficiently and economically.

Public procurement operations benefit from a large number of instructions and a wide range of functions in the e-procurement system. Nevertheless, allegedly biased specifications and evaluations and the dominance of price as the only award criterion discourage many economic operators from participating.

Indicator 29.1. Efficiency, economy and competitiveness of public procurement operations		2024 indicator value	41/100
Sub-indicators		Points	
1.	Planning and preparation of the public procurement procedure	7.4/8	
2.	Share of competitive public procurement procedures	3.9/5	
3.	Efficiency of modern tools and techniques	5.8/15	
4.	Penetration of e-procurement	5/7	
5.	Quality of tender documents	1.3/6 <sup>i</sup>	
6.	The use of contract award criteria	5/8	
7.	Performance of public procurement market	7.8/30	
8.	Performance of PPPs/concessions market	0/6 <sup>i</sup>	
9.	Contract management	2.2/9	
10.	Contract management for PPPs/concessions	1/4 <sup>i</sup>	
11.	Ex post evaluation of the procurement process and of contract performance	1.2/2	

Note: i = data not available or not provided.

Public procurement amounted to EUR 675.2 million in 2023 or almost 10% of gross domestic product (GDP).

Planning and preparation steps are prescribed in the PPL and the PPPL, but many contracting authorities lack the insights, skills and resources that would allow them to improve the outcome of what is now very much a formal exercise. The use of market consultations is regulated<sup>300</sup> in line with the EU Directives, but not in great detail, and it is little practised. Annual procurement plans<sup>301</sup> have to be prepared by each contracting authority and submitted to the MoF by 31 January each year. The plans and any amendments are required to match the budget lines where the funds for procurement are included and have to be internally approved and adopted by the authorised person of the contracting authority. Nevertheless, before they can be applied and published, users of the budget of Montenegro (except for the Parliament

<sup>299</sup> These are available at <https://www.gov.me/clanak/izvjestaji>; the annual report for 2023 can be found at <https://www.gov.me/dokumenta/1243d93c-493e-42c2-ad4e-ab8dc461e93e>.

<sup>300</sup> PPL, Article 85.

<sup>301</sup> PPL, Article 84.



and judicial authorities) must receive the formal consent of the MoF or other competent body. This additional requirement appears to continue to hamper their timely implementation.

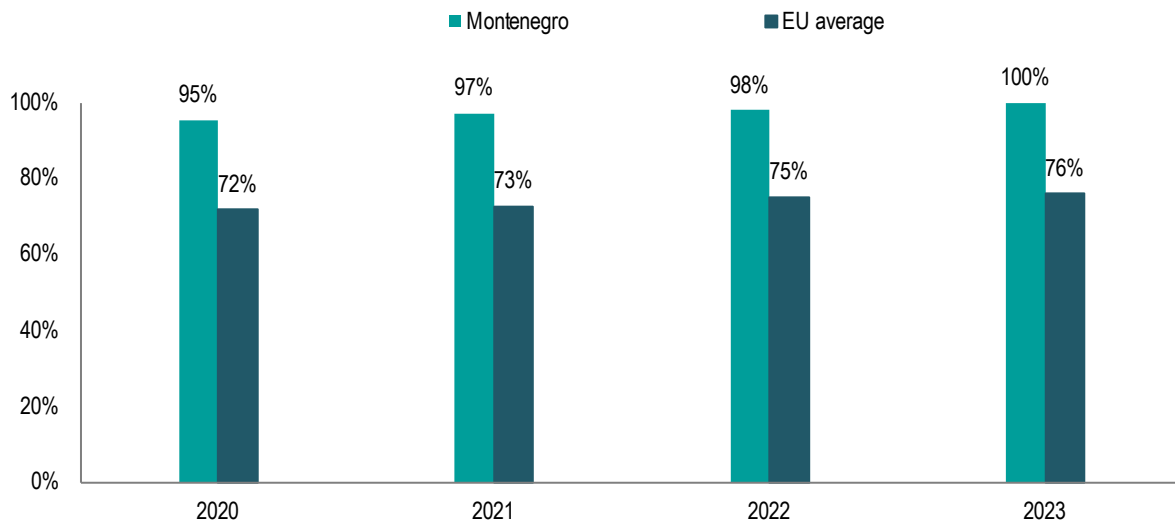
The provisions in the PPL and in secondary legislation regarding requirements, technical specifications, selection and award criteria and their application are quite detailed.<sup>302</sup> However, they are not accompanied by manuals or guidelines providing practical examples that could be shared and used by contracting authorities for putting them into practice. Procurement officials have access to training and to the services of the help desk of the DPP but with a focus on procedures: the emphasis is very much on how to follow the procedures and to use the e-procurement system and much less, or not at all, on why and for what purpose procurement would need to be carried out and by what means the desired outcomes could be achieved.

Competitive procedures are the standard method for conducting procurement (Figure 55). Public procurement above the intermediate threshold for small-value procurement (EUR 8 000) has to be carried out through the e-procurement system, which incorporates functions for the different procedures prescribed by the PPL and for the requests for proposals prescribed by the Rulebook on Small-Value Procurement.

Among the contracts carried out through the e-procurement system, the open procedure dominates with 88.2% of contracts by value in 2023, against 4.35% for the negotiated procedure without a call for competition, 0.51% for the restricted procedure and 6.90% for requests for proposals.<sup>303</sup> No contracts were concluded using the negotiated procedure with a call for competition, the competitive dialogue, the competitive procedure with negotiations or the partnership for innovation, even if the PPL allows their use.

The share of the negotiated procedure without a call for competition in 2023 was less than half of the share in 2022 (11%), which constitutes a significant improvement compared with the situation only a few years ago. Almost three-quarters of these cases were for reasons that could not be foreseen and were not caused by the contracting authority's actions.

**Figure 55. Use of competitive procedures, 2020-2023**



Note: Percentage of the use of competitive procedures over time.

Sources: Public Procurement Agency, 2024. EU data provided by Government Transparency Institute, 2024.

<sup>302</sup> PPL, Articles 86-92.

<sup>303</sup> Annual report for 2023, p. 5.

Procurement tools and techniques such as the use of framework agreements, joint or centralised procurement, electronic auctions and dynamic purchasing systems are regulated in the PPL. However, several are little used or not at all. The annual report for 2023 has no data on electronic auctions, joint procurement or dynamic purchasing systems. A total of 100 framework agreements were concluded for a value of EUR 94 million, most of them (88.4% by value) by open procedure, the rest by restricted procedure.<sup>304</sup>

Centralised purchasing<sup>305</sup> was carried out by three public entities in 2023: the Capital City of Podgorica on behalf of its subordinate contracting authorities; Montepfarm for medical supplies; and the Property Administration for the needs of state bodies for a small group of standard specification items, mainly energy carriers, vehicles, office supplies and furniture. Montepfarm concluded contracts for EUR 117 million, forming 19.2% of the total value of public procurement in 2023, while the specialised department for centralised purchasing in the Property Administration accounted for less than 3% of the total, a little more than in previous years.

The electronic procurement system, which started working on 1 January 2021, has been further improved.<sup>306</sup> Functions for more comprehensive lodging and reporting of complaints and for connecting CeJN with the Revenue and Customs Administration's system, allowing easier verification of payment of taxes and social contributions, were added in 2023. Work is ongoing to create links to the criminal records of the Ministry of Justice, and a link-up with the Agency for Prevention of Corruption is being envisaged to help identify conflicts of interest.<sup>307</sup>

The PPL requires the systematic use of the most economically advantageous tender as the only main award criterion.<sup>308</sup> However, its application depends on the circumstances. In some limited cases, it is possible to consider that the price paid at the moment of purchase represents the most economically advantageous tender. As reported by the contracting authorities and economic operators consulted by SIGMA, in practice, the use of price only remains the only award criterion in the majority of procedures. The annual report does not list procedures or contracts concluded by award criteria used. However, data provided separately by the MoF indicate that the share of price as the only award criterion is very low for open and restricted tenders, but very high (as explicitly allowed by the PPL) for call-offs under framework agreements and for negotiated procedures without prior publication of a notice.

The level of participation, measured as the average number of tenders per procedure, was slightly lower, at 3.18, in 2023<sup>309</sup> than in the two preceding years (3.27 and 3.5) (Figure 56). However, the overall level of effective competition remains rather low. Of the 5 693 conducted procedures, 2 804 were concluded following procedures where only one valid tender was received, that is, in 49% of the cases by number. In addition, a large number of procedures were cancelled because not a single valid tender was received.<sup>310</sup>

<sup>304</sup> Annual report for 2023, p. 6.

<sup>305</sup> Annual report for 2023, p. 33 ff.

<sup>306</sup> Annual report for 2023, p. 41 ff.

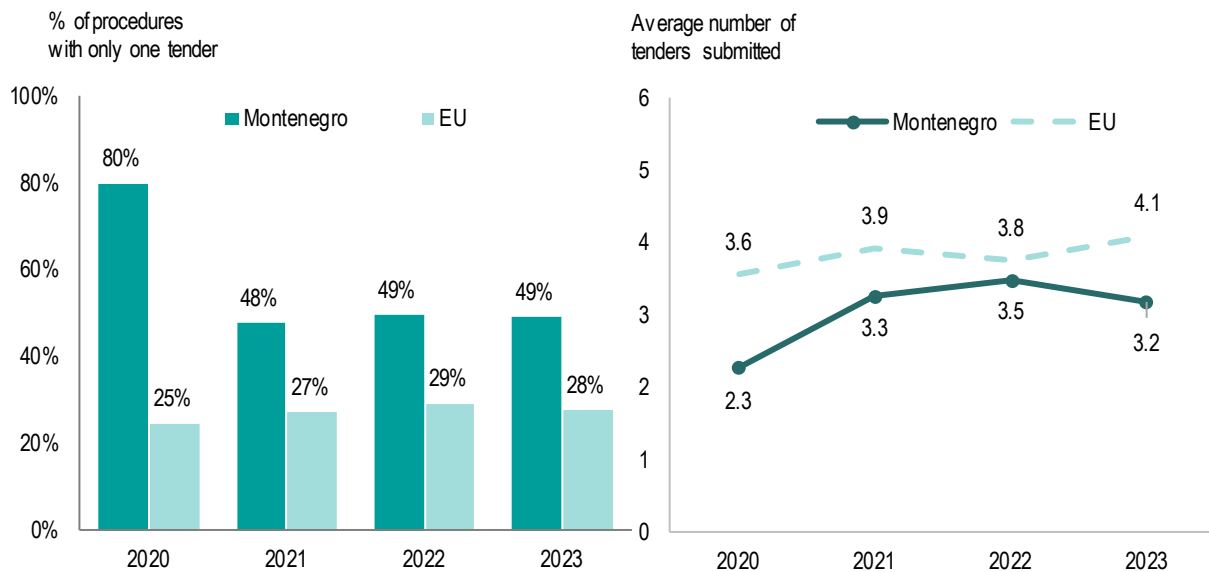
<sup>307</sup> Annual report for 2023, p. 11.

<sup>308</sup> PPL, Article 117.

<sup>309</sup> Annual report for 2023, p. 6.

<sup>310</sup> Annual report for 2023, p. 39.

**Figure 56. Average number of tenders submitted and share of procedures with only one tender, 2020-2023 (including small-value procurement)**



Notes: Percentage of competitive procedures when only one tender was submitted with the average number of tenders submitted per competitive procedure in Montenegro over time.

Source: Data for Montenegro provided by the Public Procurement Agency, 2024. EU data provided by Government Transparency Institute, 2024.

These figures match the high share of prospective tenderers surveyed by SIGMA who stated that they would not participate in public procurement because of allegedly biased specifications and criteria, because of an impression that the outcome would already have been decided on in advance, or because of cumbersome procedures and a low chance of success would not make it worthwhile to participate<sup>311</sup>. Other possible explanations are simply the small size of the supply market; the very small number of qualified enterprises in many sectors; and the difficulty for contracting authorities to prepare tender documents that meet the underlying needs and objectives and, at the same time, reflect what prospective tenderers may be willing and able to offer.

The average time needed for carrying out procurement,<sup>312</sup> measured from the publication of a contract notice to the publication of an award notice, is 81 days for the open procedure and 133 days for the restricted procedure. For requests for proposals, the average number of days is 31, despite the notional simplicity and the short deadlines of this simplified procedure for small-value contracts.

At present, contract implementation is little regulated and monitored. The new obligation introduced in 2022 in the PPL to formally designate a person in charge could be a step in the right direction to help ensure that the items procured are properly provided. However, it is reported that this task is often assigned to the procurement official rather than to those responsible for the substantive departments where the items are received and put to use. When this is the case, the procurement department, which is often understaffed, receives yet another obligation that it is not well placed to carry out, and the effect on implementation is weak.

<sup>311</sup> SIGMA Business Survey on the public procurement system in the Western Balkans 2024, conducted April-May 2024. Responses were gathered from 285 businesses. When asked to name the reason for not taking part in procurement procedure, 54.9% answered "The criteria seemed to be tailor-made for certain participants", while 15.7% answered "The procedure seemed too bureaucratic or burdensome".

<sup>312</sup> Annual report for 2023, p. 40 f.

Guidance materials are available, and training for procurement officials is provided, with a focus on prescribed procedures and only a few detailed, practical examples. However, the wide range of forms and procedural prescriptions available, the nominal availability of guidance and training materials, and the training and exams for certification of officials are not sufficient for professionalising public procurement, raising the level of competition and ensuring the best value for money.

### **Availability and quality of support to contracting authorities and other actors to strengthen professionalisation of procurement operations**

Indicator 29.2. Availability and quality of support to contracting authorities and other actors to strengthen professionalisation of procurement operations		2024 indicator value	70/100
Sub-indicators		Points	
1.	Availability of advisory and operational support	24/36	
2.	Availability of advisory and operational support for PPPs/concessions	6/12	
3.	Availability of quality training for procurement officers and other actors	22/28	
4.	Availability of quality training for officers and other actors in the area of PPPs/concessions	6/12 <sup>i</sup>	
5.	Role of civil society	12/12	

Statements made by contracting authorities during the SIGMA assessment point to some apparent, underlying reasons for the problems mentioned under the preceding indicator: too few skilled staff members in public procurement units relative to the tasks at hand; weak knowledge and skills, including for planning and preparation (market consultations, drafting of requirements and specifications and evaluation criteria) and contract management; weak incentives, not matching the obligations and the responsibilities; risk of blame from auditors and of complaints from participants for spurious, formal reasons; and insufficient support from senior management and user departments.

The DPP provides advisory and operational support on public procurement through a helpdesk for telephone inquiries, with contact details on the MoF's website.<sup>313</sup> Depending on the nature of the query, callers are invited to consult the legal section, the e-procurement section or the section for training and examinations. The helpdesk is accessible during ministry working hours.

The MIA and the MoF provide advisory and operational support on PPP operations (whether public contracts or concessions) upon demand.

The DPP organises regular training for staff of contracting authorities and other interested persons. Scheduled training events are published on the MoF's website.<sup>314</sup> The training covers two main subject areas: public procurement regulations and the use of the e-procurement system. The former aims mainly to prepare participants for the exam required for public procurement officials.<sup>315</sup> The exam and the corresponding training are focused on the applicable regulations and prescribed procedures and also cover the handling of complaints. The training is normally delivered by DPP staff from the section for training and examinations.

<sup>313</sup> The helpdesk is available at <https://www.gov.me/clanak/help-desk>.

<sup>314</sup> The list of training events is available at <https://www.gov.me/clanak/kalendar-obuka>.

<sup>315</sup> According to PPL, Article 47 and as regulated in the Rulebook at <https://www.gov.me/dokumenta/f73d3845-f994-4c42-8193-6b79ece8a18b>.

On some occasions, the DPP's training events are supported by external experts. DPP staff also participate in training events organised by other parties, in particular, the Chamber of Commerce<sup>316</sup> and some non-governmental organisations (NGOs). There are no other established providers of training for public procurement officials, e.g. among consulting firms, trade associations or the like. There is also no university or other institution of higher education with specific public procurement topics in their curricula.

Contracting authorities thus have little or no possibility of requiring any kind of formal education as a condition for employment as a procurement officer. The relatively large number of contracting authorities, many of them small, means that for many of them, there is little budget available for properly staffing a procurement unit with knowledgeable, skilled, and experienced staff who have public procurement as their main field of activity. As a result, the level of professionalisation in public procurement remains low and is unlikely to improve significantly in the short or medium term, despite "Professionalisation and improvement of operational capacities at the level of contracting authorities" being one of the operational goals of the current public procurement strategy.<sup>317</sup>

Training for PPP operations is frequently organised by the MIA and the MoF, both for their own staff and for interested parties among contracting authorities and economic operators. Such training events have mainly been organised with support from external experts, as the MIA's own capacity remains limited.

Some NGOs are actively engaged in monitoring and analysing public procurement and publishing corresponding reports, as well as in mobilising citizens to keep an eye on the actions and decisions of contracting authorities. They also hold awareness-raising and training events and public consultations on regulatory and institutional developments. The most active ones are Institut Alternativa<sup>318</sup> and MANS,<sup>319</sup> the Network for the Affirmation of the Non-Governmental Sector, which is also part of the Balkan Tender Watch.<sup>320</sup> Both benefit from funding from external donors. Their work on public procurement is set in the wider context of their activities in the fields of combating corruption and monitoring public financial management and other aspects of public administration.

<sup>316</sup> See, for example, <https://komora.me/obrazovanje/javne-nabavke-izjava-privrednog-subjekata-espj> and <https://komora.me/obrazovanje/koriscenje-elektronskog-sistema-javnih-nabavki-cejn-2>.

<sup>317</sup> See the strategy at <https://www.gov.me/dokumenta/9e9442fa-2e4f-40e2-9b90-7b917281a821>, p. 12 ff.

<sup>318</sup> For more information, see <https://institut-alternativa.org/>.

<sup>319</sup> More information is available at <https://www.mans.co.me/>.

<sup>320</sup> For more information, see <https://balkantenderwatch.eu/>.

### Principle 30: An independent procurement review system ensures effective, rapid and competent handling of complaints.

The mechanisms and procedures to challenge public procurement decisions meet high standards. The independence and responsibility of the review body (the CPRPPP) and its members are ensured. After a temporary shortage of members, the CPRPPP is again fully staffed and can now make fully motivated decisions on time. They are duly published, but search options are limited. There is no case management system to help ensure the consistency of its rulings. The enforcement of its decisions can be improved.

Indicator 30.1. Independence, effectiveness and competence of the review system		2024 indicator value	79/100
Sub-indicators		Points	
1.	Mechanisms and procedures to challenge procurement decisions	18/18	
2.	Mechanisms and procedures to challenge decisions taken by contracting authorities as regards PPPs/concessions	8/8	
3.	The independence and responsibility of the review body and its members	13/13	
4.	The independence and responsibility of the review body for PPPs/concessions and its members	7/7	
5.	Effectiveness of handling complaints by the review body and mechanisms to ensure implementation of its decisions	2/9	
6.	Effectiveness of handling complaints by the review body and mechanisms to ensure implementation of its decisions for PPPs/concessions	0/5 <sup>1</sup>	
7.	Complaint submission in practice and fairness of fee rates for initiating review procedures	8/9	
8.	Quality of decision making by the review body	11/11	
9.	Right to challenge decisions of the review body which is not judicial in character	2/6	
10.	Public availability and timeliness of data on the review system	10/14	

The CPRPPP is the authority responsible for the protection of rights in public procurement procedures<sup>321</sup> as well as in procedures for awarding PPP contracts<sup>322</sup> falling under the PPL and the PPPL, respectively.

In addition, any person who has suffered from violations of the PPL can claim damages before the competent court.<sup>323</sup>

The CPRPPP has a president and six members, who are civil servants and perform their duties full-time. They are appointed by Parliament, based on a public invitation, for a period of five years. They may be reappointed. In 2023, the mandate of the former members expired. The president and five new members were appointed only around the end of the year<sup>324</sup> and the final, sixth member not until early April 2024<sup>325</sup>.

This meant that many decisions were delayed, leading to an average time for resolving complaints of 41 days in 2023, compared to 27 days in 2022, with the legal obligation to do so within 30 days.<sup>326</sup> However, during the first half of 2024, the appointment of new members and improvements to the review process have given positive results. Despite an increase in the number of cases by 25% compared with

<sup>321</sup> PPL, Article 198.

<sup>322</sup> PPPL, Article 62.

<sup>323</sup> PPL, Article 197.

<sup>324</sup> The current composition is found at <https://kontrola-nabavki.me/o-nama/sastav-i-izbor>.

<sup>325</sup> See report for 1 Jan. – 30 June 2024, available at <https://komisija-nabavke.fra1.digitaloceanspaces.com/post/79/documents/KxWnXPd0hA2KtTmOCwNLbnowkQi3Ukq0RjV5EtNCDVcFYwU3iFfOTMKTc4g.pdf>

<sup>326</sup> PPL, Article 193.

the first half of 2023, all cases were resolved within the deadline with an average of 25 days from the date of delivery of complete documentation by the contracting parties.

The members are supported by a secretariat composed of a team of 14 staff members, including legal experts, who provide professional, administrative and technical services. In particular, they help research the cases submitted and prepare and publish decisions. The authorised number of staff is 19, meaning there is a potential to further improve the quality of the work of the CPRPPP.

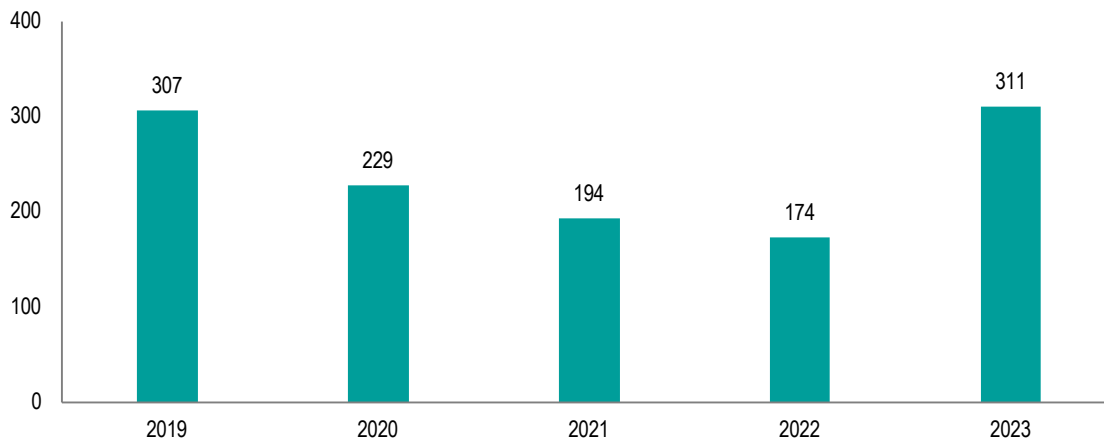
With new members having been appointed, the review body is now taking steps to improve the quality of its decisions, particularly to ensure a higher degree of consistency with past decisions. A proper case management system is still missing, however.

Decisions are now published in their original form and with full content on the e-procurement system and the CPRPPP website within three days from the date of their adoption. However, at present, there is a search function with limited possibilities to search for and identify a decision; the text of the decisions is not searchable.<sup>327</sup> Their format thus makes it difficult to identify and analyse common features and trends across a range of decisions and over time.

The CPRPPP is required to issue half-yearly reports to Parliament no later than 31 July and 31 January, as well as an annual report for the preceding year no later than 30 June. The reports are published on the website.<sup>328</sup>

All economic operators have the right to submit complaints, for which there is a dedicated function in the e-procurement system. A fee of 1% of the estimated contract value has to be paid, up to a maximum amount of EUR 20 000.<sup>329</sup> The CPRPPP does not address the complaint until the fee is paid. In 2023, 311 complaints were received, in addition to 19 complaints carried over from 2022 (Figure 57). This represents an increase of about 10%.<sup>330</sup>

**Figure 57. Number of complaints submitted to the CPRPPP, 2019-2023**



Source: CPRPPP.

<sup>327</sup> The list of decisions, with a search facility, is available at <https://kontrola-nabavki.me/rjesenja>. The decisions are published as .pdf files generated by scanning hard-copy originals.

<sup>328</sup> See <https://kontrola-nabavki.me/o-nama/izvjestaji-o-radu>.

<sup>329</sup> PPL, Article 188.

<sup>330</sup> Strategy implementation report for 2023, p. 18; the CPRPPP's own annual report for 2023 was not yet available on the CPRPPP website by 30 June 2023.

Complaints against contracting authority actions or decisions have to be submitted within a time period determined by the nature and timing of the decision in question,<sup>331</sup> e.g. within the standstill period in case of a complaint against a contract award decision.

The complaints are copied to the contracting authority concerned, which is obliged to provide the CPRPPP with any information needed to review and decide on the complaint. The contracting authority may also decide of its own volition to resolve the complaint by addressing the substantive issues raised, in which case it has to inform the CPRPPP.<sup>332</sup>

The CPRPPP carefully argues and documents each one of its decisions.<sup>333</sup> The examples reviewed so far demonstrate attention to detail, although often with a focus on procedural details. This has been a recurrent source of dissatisfaction for economic operators and contracting authorities, even though the latter have often shown similar tendencies themselves when evaluating tenders received.<sup>334</sup>

Having received a complaint, the CPRPPP remains obliged to consider not only the subject of the complaint but also to review the rest of the procurement procedure in order to identify any other possible infringement of the PPL, at least those listed as significant violations of procedural rules.<sup>335</sup> If such a violation is found, the CPRPPP will cancel the procedure in whole or in part, depending on the extent to which there may be a possibility to remedy the violation.

The decisions of the CPRPPP can be appealed against before the Administrative Court of Montenegro.<sup>336</sup> The court's decision has to be also published on the CPRPPP website and in the e-procurement system. In 2023, 25 appeals were made.<sup>337</sup>

<sup>331</sup> PPL, Article 185.

<sup>332</sup> PPL, Article 189.

<sup>333</sup> As noted when reviewing decisions published at <https://kontrola-nabavki.me/rjesenja>.

<sup>334</sup> As stated by representatives of economic operators in meetings with SIGMA.

<sup>335</sup> PPL, Article 195.

<sup>336</sup> PPL, Article 197.

<sup>337</sup> Strategy implementation report, p. 18.



## External audit

### Principle 31: All public funds are effectively audited by an independent auditor that provides assurance on the use of public resources and helps improve the functioning of the public sector.

The constitutional and legal independence of the SAI is well established, with organisational and managerial independence in place. However, the independence and organisation of the SAI have been negatively affected by the failure of Parliament since July 2022 to appoint a president and fifth member of the SAI. The SAI continues to perform well under its mandate, is in line with international standards, and is working on improving its internal quality management and engagement with external stakeholders. However, the audited entities implementation of the SAIs recommendations is still limited, and the Parliament makes little use of audit reports.

Indicator 31. Adequacy of the legal framework for external audit and its effectiveness in practice		2024 indicator value	82/100
Sub-indicators		Points	
1.	Constitutional, legal, organisational and managerial independence of the SAI	18.7/20	
2.	Adequacy and coverage of the SAI mandate and its alignment with IFPP	10/10	
3.	Governance and management of the SAI	9/10	
4.	Compliance of audit methodology with ISSAIs / Audits are conducted in accordance with the ISSAIs	7/10	
5.	Quality management of the SAI	6/10	
6.	Reporting and the follow-up of audits	9.6/10	
7.	Implementation of audit recommendations	10.2/15	
8.	SAI external engagement and communication	4.4/5	
9.	Use of SAI reports by the legislature	7/10	

The SAI is established under the Constitution<sup>338</sup> as an independent and supreme body of state audit. It follows the collegiate model with a senate of five members appointed by the Parliament.<sup>339</sup> The Parliament selects the president from among the senate members for a single nine-year term. The legal framework is consistent with the ISSAIs.

In practice, the Parliament has not made the necessary appointments (president and fifth senate member) to the SAI in the last three years. The fifth member has now been appointed on 31 July 2024. Following a request by the SAI, the International Organization of Supreme Audit Institutions (INTOSAI) International Development Initiative (IDI) assessed the independence of the SAI. In September 2023, IDI reported<sup>340</sup> that the delay in the appointments of the president and the fifth member of the senate represented an infringement of the independence of the SAI (Principle 2 of the Mexico Declaration). In addition, the lack of the appointment of the fifth member of the senate represents interference by the Parliament in the operations of the SAI (Principle 3 of the Mexico Declaration). In April 2024, the MoF challenged the long-standing practice of the senate of the SAI to decide on variable parts of the salary to members of the senate and auditors and refused the related payments for the members of the Senate. It remains to be established how far this decision is an infringement of the financial independence of the SAI.

<sup>338</sup> Constitution of Montenegro, Article 144.

<sup>339</sup> Law on State Audit Institution, Articles 30, 31.

<sup>340</sup> IDI (2023), *Assessment Report on the Allegations of Independence Threats and Risks to the State Audit Institution of Montenegro*, September.

The organisation and management of the SAI enable it to carry out its mandate and develop its institutional capacity. A Strategic Development Plan 2023-2027 and an associated implementation plan are in place. The implementation of the plan is monitored and reported annually.

The SAI publishes a comprehensive annual report covering all their audit and co-operation activities. It also includes a financial report. The annual report is sent to Parliament and published on the SAI website. The Parliament may appoint an external body to audit the SAI's financial report, but it has not done so. The SAI, therefore, occasionally requests a fellow state audit institution to review the financial report.<sup>341</sup>

The audit mandate of the SAI is comprehensive. It covers all budget users and other users of public funds. The SAI Law empowers the SAI to undertake financial, compliance and performance audits, to be implemented in accordance with ISSAI and a Code of Ethics. The SAI has developed a manual and series of guidelines and instructions for financial and compliance audits consistent with the ISSAI principles. In addition, the SAI has instructions for performance audits, which, although not comprehensive, are generally in line with ISSAI principles. The instructions formally provide the range of ISSAI principles but only have limited guidance for auditors in some areas, for example, in the research required to identify audit topics, on the consideration of materiality at each stage of the audit or gathering evidence to meet the audit objectives.

Since 2020, the SAI carries out a slowly increasing number of audits, with the majority of audits being traditional financial and compliance audits, only a small and steady number of performance and IT audits, and an increase in follow up audits (Table 6).

**Table 6. Audits completed by the SAI, 2020-2023**

	2020	2021	2022	2023
Financial and compliance audits <sup>342</sup>	28	26	25	28
Compliance audits	-	1	-	2
Performance audits	3	6	6	6
IT audits <sup>343</sup>	1	2	2	2
Follow-up audits	1	1	1	3
Fiscal Responsibility assessment	1	1	1	1
<b>Total</b>	<b>34</b>	<b>37</b>	<b>35</b>	<b>41</b>

Note: In 2020 and 2022, the SAI did not conduct compliance audits.

Source: Annual Reports of the SAI of Montenegro

The SAI has policies<sup>344</sup> in place to ensure the audit quality for financial, compliance, and performance audits. In addition, in 2023, the SAI adopted a Code of Ethics. The quality policies and procedures are generally in line with ISSAI's. In practice, the SAI has been implementing these policies and, in March 2024, adopted a strategy on quality management that aims to develop a holistic quality process in line with the most recent ISSAI developments. The audit reports are prepared according to requirements set out in the SAI Law, the rules of procedure and other internal rules. These rules also require that the preliminary audit report is shared with the auditee and reviewed by an internal auditing board. After the report is published, there is a process of follow-up of the implementation of recommendations. The SAI

<sup>341</sup> For the financial year 2023, the Court of Auditors of Portugal has carried out the audit of the Annual financial statements of the SAI of Montenegro, issuing an unqualified opinion.

<sup>342</sup> Includes combined audits.

<sup>343</sup> Includes follow-up audits.

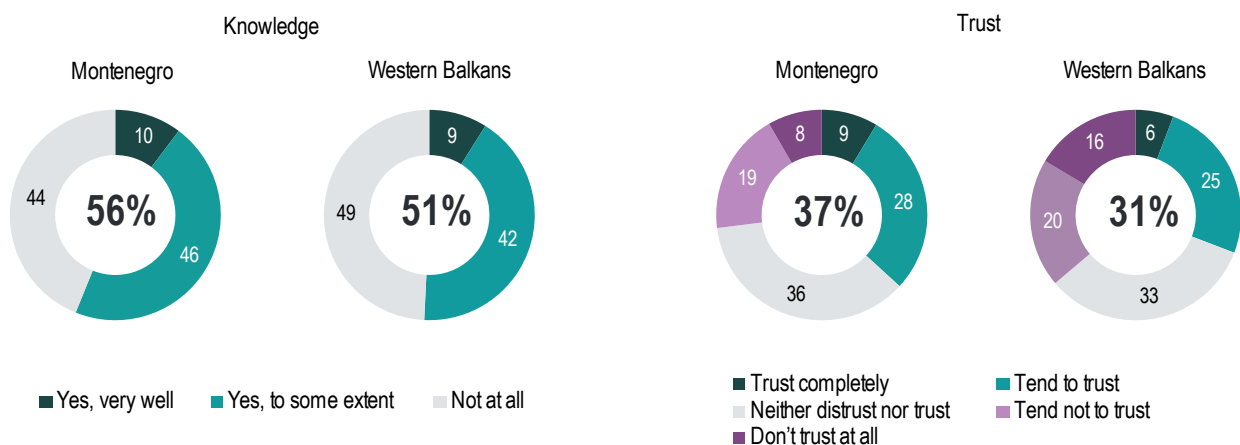
<sup>344</sup> Guidelines for Audit Quality Control.

systematically collects and publishes information on the follow-up of recommendations. Of the recommendations made in 2022, the auditees accepted 100%, and 57% were implemented or in progress by the end of 2023. This represents a slight decrease in the implementation rate compared to the previous monitoring report.

The SAI publishes its audit reports on its website and sends them to the Parliament. However, the Parliament makes little use of SAI reports. The Committee for Economy, Finance and Budget does not have a practice of holding hearings with auditees to discuss audit reports. In 2023, they held only one session – to discuss the audit report on the final state budget accounts for 2022. Other subject committees occasionally discuss subject-specific reports. To address the lack of parliamentary engagement, an agreement on co-operation between the Parliament and the SAI was signed in 2018. However, despite also agreeing an action plan for the co-operation agreement, the SAI audit reports are still not used regularly by the Parliament. When they are, the Parliament does not follow up on the implementation of its conclusions.

The SAI occasionally consults or surveys the views of external stakeholders but does not do this frequently or regularly to gain more valuable input to strategic planning or quality assessment processes. In the SIGMA Survey of Public Servants, about 81% of managers who had to analyse any report from the SAI responded very positively about the quality, saying that the SAI reports are easy to understand and also answering that SAI reports provide relevant and useful recommendations. Regarding knowledge of SAI among all civil servants, about 60% declared that they are familiar with the work of the SAI and about 67% of civil servants think that the SAI carries out its work and activities independently of the government.<sup>345</sup> Results of the SIGMA Survey of Citizens show that 56% of respondents declared that they are familiar with the SAI and the work it does, and 37% declared that they trust the SAI on a slightly higher share than the regional Western Balkan average.

**Figure 58. Citizen knowledge and trust in SAI**



Notes: Percentage of valid responses to the questions: 1. "Are you familiar with the Supreme Audit Institution and what it does?" 2. "How much trust do you have in Supreme Audit Institution?". The percentage in the middle is the share of the respondents who answered "yes, very well" or "yes, to some extent" to the question about knowledge and "trust completely" or "tend to trust" to the trust question.

Source: SIGMA Survey of Citizens on public administration in the Western Balkans 2024.

<sup>345</sup> SIGMA Survey of Public Servants on the functioning of the public administration 2024: 40.4% (n=145) answered "tend to agree" and 27% (n=97) answered "strongly agree" to the statement.

## Financing of local governments

### Principle 32: Regional and local governments have resources and adequate fiscal autonomy for exercising their competences, with financial oversight to foster responsible financial management.

Fiscal autonomy of municipalities is provided by legislation, along with multiple revenue streams. However, equalisation mechanisms for municipalities are not effective, and financial oversight is not producing the desired results, leading to high levels of borrowing and persistent municipal payment arrears.

Indicator 32. Fiscal autonomy of local governments		2024 indicator value	51/100
Sub-indicators		Points	
1.	Legislative guarantees for fiscal autonomy and diverse sources of revenues of local governments	11.2/19	
2.	Rules for fiscal equalisation to mitigate disparities among local governments	4/10	
3.	Mechanisms for financial oversight of local governments	6/12	
4.	Local governments' right to raise and manage own finances	15.1/23	
5.	Rules for conditional and unconditional grants to local governments	9/10	
6.	Financial balance and fiscal sustainability of local governments	5.9/26	

The legal framework incorporates guarantees for the fiscal autonomy of local governments. The law introduces a variety of revenues and establishes precise criteria for allocating resources to municipalities. The local assembly cannot adopt the budget in the case of a negative opinion from the MoF, which may limit municipal autonomy in practice. All rules are not, however, consistently implemented, as the “Europe Now” programme<sup>346</sup> has shown, leading to reduced municipal share on income tax without prior consultation with local governments.

Municipalities can own assets and have the right to borrow, provided they follow procedural rules and receive the relevant authorisation from the State. Total repayment of obligations having the character of debt may not exceed 10% of the realised current income in the year preceding the year of borrowing.<sup>347</sup> A municipality has the legal discretion to borrow above this level only to finance capital expenditures of strategic importance. However, most municipalities only take small loans (cash flow) from private banks, while large-scale infrastructure projects usually need state involvement and guarantees.<sup>348</sup>

In 2023, total municipal debt reached 34% of total municipal current revenue and the debt repayment costs were at the level of 4.3% of total municipal current revenue, which is comfortably within the general legal limit of 10%<sup>349</sup>. Nevertheless, a few municipalities have exceeded this general legal limit or are at the risk of exceeding should the conditions on interest rates change to the worse. At the same time, 14 municipalities out of 25 had payment arrears (unpaid obligations at the end of the calendar year 2023). In 2020, the Public Administration Reform (PAR) Strategy had already noted a lack of fiscal discipline and a high level of debt.<sup>350</sup> Despite these worrying data, in 2023, all municipalities had a gross operating surplus, and only two delayed the adoption of their budgets.

<sup>346</sup> A characteristic case presented under Principle 14.

<sup>347</sup> Law on Local Self-Government Finance (LSGF Law), Article 49.

<sup>348</sup> Congress of Local and Regional Authorities of the Council of Europe (CLRAE) (2024), *Monitoring of the Application of the European Charter of Local Self-Government in Montenegro*, Monitoring Committee, Strasbourg, p. 19.

<sup>349</sup> Additional borrowing may be allowed for financing capital expenditure with the consent of the Government.

<sup>350</sup> The PAR Strategy is available at <https://www.gov.me/dokumenta/823842f4-2ffd-4a0d-936e-c1b00c669115>.

These data nevertheless reflect weaknesses in financial management and control at the local level, particularly concerning small-sized municipalities with low capacities. From a normative point of view, however, sufficient provisions are in place. The legal framework establishes a comprehensive system for the internal and external audit of local governments. The primary independent audit institution responsible for mandatory external audits of local governments is the SAI. The MoF and the Budget Inspector carry out financial supervision in relation to the funds provided by the central government. The law also provides for sanctions when fiscal rules are broken.<sup>351</sup>

Comprehensive and systematised data about the implementation of this legal framework were not available. According to the recent Congress of Local and Regional Authorities of the Council of Europe (CLRAE) monitoring report, the main general findings in the auditing reports refer to overestimation of revenues and excessive employment at the municipal level. In particular, the collection of own revenues does not appear satisfactory and can be improved, thus easing the pressure for compensation under the equalisation funds.<sup>352</sup>

The analysis of the MPA<sup>353</sup> highlights problems of disorganised ownership of data, lack of access to databases of the Revenue and Customs Administration, complicated and time-consuming tax determination and collection procedures, among other things. In December 2022, the Government adopted a new PFM Reform Programme for 2022-2026 with an Action Plan, which has a wider scope than the previous one, including PFM also at the municipal level.

The diverse contexts and capabilities at the municipal level highlight the importance of the equalisation system, which accounts for about 11% of total local revenues.<sup>354</sup> Equalisation funds are distributed based on shared revenues. The Equalisation Fund comprises 11% of the national yield of the Personal Income Tax, 20% of the Property Transfer Tax, 100% of the Vehicle Tax, and 40% of the concession fees from games of chance. Municipalities with a development level below 100% of the average development index are eligible to benefit from the Fund. The allocation of funds is as follows: A fixed allocation of 15% is equally distributed among all eligible municipalities; an additional 35% is distributed based on territory (50%) and population (50%). The remaining 50% is allocated based on the average per capita personal income tax revenues of each municipality. Furthermore, the resulting amount is adjusted by a factor of 1.5 for municipalities with a total population under 3 000 and by a factor of 1.1 for other municipalities with a total population above 3 000 but below 6 000.

The Gini coefficient of per capita total revenues is at a high level (the second highest in the Western Balkans) of 0.418, confirming the high differentiation among municipalities. Between the 9th and 2nd decile (Figure 59), the score of revenues' inequalities is 15.35 before equalisation and decreases to 5.57 after equalisation. This means that a reduction of inequalities takes place, but the effect is limited, leaving relatively significant differences between municipalities.<sup>355</sup> The level of inequalities in the financial potential of local governments to provide local public services remains higher than in most EU countries and the second highest in the Western Balkans.

<sup>351</sup> Article 27 of the Law on Budget and Fiscal Responsibility, providing that budget deficit cannot exceed 10% of municipal revenue; Articles 62 and 63 of the LSGF Law, section on sanctions.

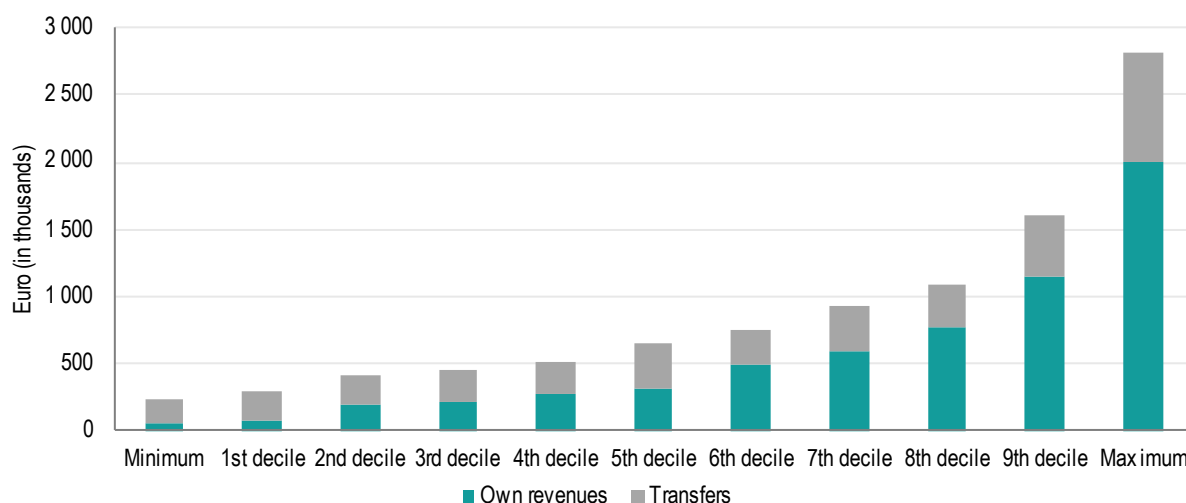
<sup>352</sup> CLRAE Monitoring Report 2024, op.cit. p. 22.

<sup>353</sup> Ministry of Public Administration (2024), *Analysis of the Functioning of Local Self-government System in Montenegro*, Podgorica, p. 43

<sup>354</sup> NALAS (2024), *Fiscal Decentralisation Indicators for South-East Europe*, Network of Associations of Local Authorities of South-East Europe, Ninth edition, February, p. 168, <http://www.nalas.eu/category/publications/>.

<sup>355</sup> Amendments to the LLGF at the end of 2023 prescribe the allocation of subsidies to underdeveloped municipalities, however this has not yet had effect in annual data on municipal finances.

**Figure 59. Per capita revenue of local governments before and after equalisation, 2023**



Source: Calculations based on financial reports provided by the Ministry of Finance.

Own revenues of municipalities<sup>356</sup> include local taxes (such as real estate tax and surtax on personal income tax); local fees (including local administrative and communal fees); local charges (such as fees for the communal equipment of building land, planning, use of municipal roads, and environmental protection and improvement); revenue from concession fees for communal activities; city rents, etc. The law grants municipalities the authority to establish these local public revenues (taxes, fees and charges), set their amounts within legal limits, prescribe exemptions and reductions, manage their collection, enforce collection, and impose penalties. Municipalities manage such funds to finance their autonomous activities. Municipalities receive funds from the state budget for delegated and entrusted tasks under the jurisdiction of ministries and other state bodies.

The legislation formally incorporates the principle of commensurate funding.<sup>357</sup> However, this is not fully realised in practice, which is evident in social and child protection, which are state responsibilities, but municipalities contribute to satisfying pressing needs in their territory. Most municipalities financed the construction of daycare centres for children and young people with developmental difficulties and disabilities in their territory, as well as the necessary equipment, service delivery and operation. Their attempt to find an agreement for adequate financial coverage by the line ministry resulted in only a small contribution.<sup>358</sup>

The percentage of the local own revenues compared to the total government revenues was 10.2%,<sup>359</sup> reflecting the relatively narrow formal scope of functions for local government. Concerning local government revenue structure, notably, the share of own revenue is the biggest in the Western Balkans at 67% of all local revenues. Shared taxes reached 20%, while unconditional transfers (“general grants”) reached 11% and investment grants only 1%. This structure seems to imply considerable fiscal autonomy. Still, as already shown, the available resources are insufficient, and municipalities try to increase their resources through borrowing. At the same time, some of them are trapped in a vicious circle of poor revenue and indebtedness.

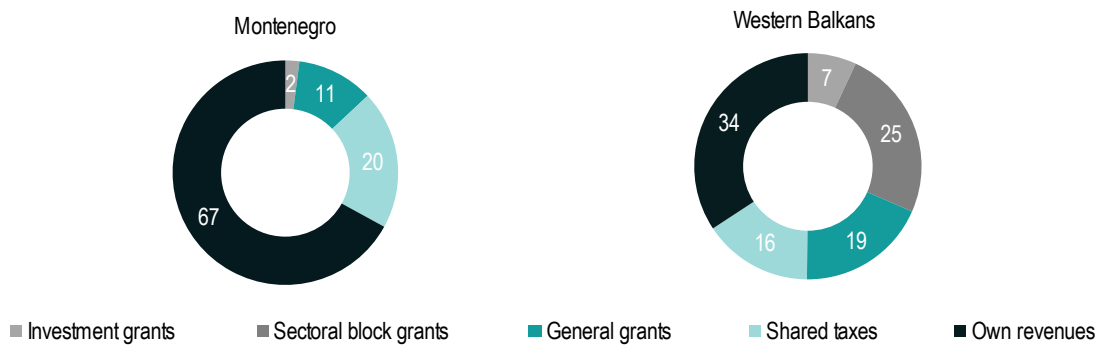
<sup>356</sup> LSGF Law, Article 7.

<sup>357</sup> Law on Local Self-Government, Article 151; LSGF Law, Article 13.

<sup>358</sup> CLRAE Monitoring Report 2024, op.cit. p. 22.

<sup>359</sup> NALAS (2023), “Local government finance indicators in South-East Europe”, *Statistical Brief 2023*, Third edition, <http://www.nalas.eu/category/publications/>, data for 2021.

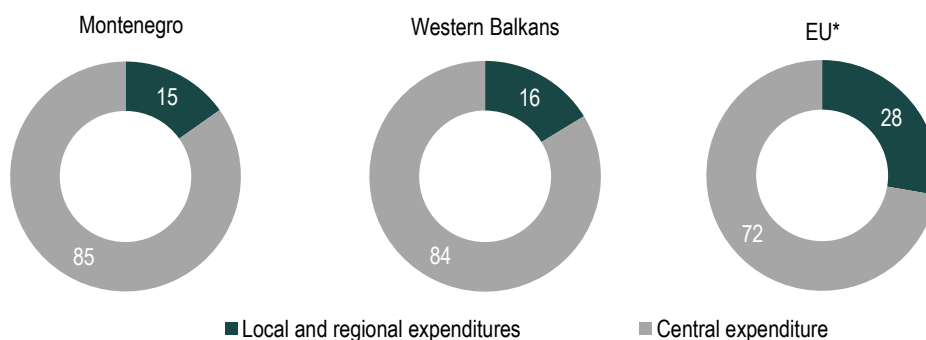
**Figure 60. Structure of local government revenue in the Western Balkans, 2021**



Source: NALAS (Network of Associations of Local Authorities of South-East Europe) (2024), Fiscal Decentralisation Indicators for South-East Europe, 9th Edition, NALAS, Skopje, <http://www.nalas.eu/ninth-edition-of-nalas-fiscal-decentralization-indicators-for-edition-south-east-europe/>.

The percentage of total local government expenditure relative to the total expenditure of the general government was 12.6% in 2021<sup>360</sup> and increased to 15.2% in 2022 (Figure 61), partly because tourism started to bounce back and the economy had begun to recover after the sharp decline during the first year of the COVID-19 pandemic. Montenegro has a share of local government expenditure in total government expenditure close to the region's average and a considerably lower share than the mean of European OECD countries (28.8%), reflecting the relatively narrow scope of its local government functions.

**Figure 61. Share of local and regional government expenditures in total public expenditures, 2022**



Note: EU\* is the simple average of the 22 member states included in the NALAS fiscal decentralisation database. See Annex for the complete list. Source: OECD (n.d.), *OECD Fiscal Decentralisation Database*, <https://www.oecd.org/tax/federalism/fiscal-decentralisation-database/>; NALAS (2024), *Fiscal Decentralisation Indicators for South-East Europe*, Ninth edition, <http://www.nalas.eu/category/publications/>; data provided by ministries of finance in the Western Balkan administrations.

<sup>360</sup> (2023), "Local government finance indicators in South-East Europe", *Statistical Brief 2023*, Third edition, <http://www.nalas.eu/category/publications/>, data for 2021.

# Public administration in Montenegro 2024

This report provides analysis on how Montenegro performs based on the standards set by the Principles. It covers the six thematic areas of the Principles (strategy, policy development and co-ordination, public service and human resource management, organisation, accountability and oversight, service delivery and digitalisation, and public financial management) and provides indicator values and comparison of overall trends across the public administration.