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ABOUT WEBER 2.0

The Western Balkan Civil Society Empowerment for a Reformed Public Administration (WeBER2.0) is a three-year project principally funded by the European Union (EU). For activities related to the preparation and printing of the PAR Monitor 2019/2020 and the organisation of the second regional “Citizens First” conference in February 2021, co-funding was provided by the “Protecting Civic Space – Regional Civil Society Development Hub” project, financed by the Swedish International Development Cooperation Agency (Sida) and implemented by the Balkan Civil Society Development Network (BCSDN). WeBER2.0 represents a continuation of the Western Balkans Enabling Project for Civil Society Monitoring of Public Administration Reform (WeBER), a project implemented from 2015 to 2018 and funded by the European Union and co-funded by the Kingdom of Netherlands.

The first WeBER project has contributed to increasing the relevance, participation, and capacities of civil society organisations (CSOs) and the media in the Western Balkans (WB) to advocate for and influence the design and implementation of public administration reform (PAR). WeBER2.0 builds upon the previous WeBER’s accomplishments and further enhances the engagement of CSOs in PAR by conducting evidence-based monitoring of PAR in line with EU requirements. It also aims to promote dialogue between CSOs and government at the regional, national, and local levels, strengthening participatory democracy and exerting pressure on governments to continue to implement administrative reforms and bring administrations closer to citizens.

A combination of activities is conducted in WeBER2.0, contributing to the achievement of the project’s objective, namely:

- Through the Regional WeBER Platform and its National PAR Working Groups, which gather more than 130 CSOs, WeBER2.0 is facilitating dialogue on PAR for creating and implementing inclusive and transparent policy, as well as contributing to the sustainability of administrative reforms to the benefit of the citizens.
- Through its research and monitoring work and production of PAR Monitor reports, WeBER2.0 has created and gathered evidence for a meaningful dialogue.
- Through the CSO PAR Knowledge Centre, WeBER2.0 provides a searchable database of analyses and reports on PAR produced by the region’s civil society.
- Through the “Mind (y)our reform!” online regional citizens’ campaign and platform for collecting and sharing citizens’ views on PAR and their experience with administrations (<https://citizens.par-monitor.org/>), WeBER2.0 is collecting citizens’ input to influence authorities, thus contributing to the creation of more citizen-oriented public administrations.
- By piloting the monitoring approach to the mainstreaming of PAR in sectoral policies and equipping CSOs with the capacities to do it, WeBER2.0 aims to improve the embeddedness of PAR across the region’s administrative systems, thus increasing the sustainability of these reforms.
- Through a small grants scheme, WeBER2.0 works on improving the capacity of CSOs in the Western Balkans to participate in PAR.

WeBER2.0 products and further information about them are available on the project's website, at www.par-monitor.org.

WeBER2.0 is implemented by the Think for Europe Network (TEN), composed of six EU policy-oriented think tanks in the Western Balkans:



institut alternativa



Institute for Democracy and Mediation
Institut për Demokraci dhe Ndërmjetësim

By partnering with the European Policy Centre (EPC) from Brussels, WeBER2.0 has ensured EU-level visibility.



WHO DO WE COOPERATE WITH?

Under the previous WeBER project, cooperation with a multitude of stakeholders in the region and beyond has been established in the effort to ensure a sustainable course of administrative reforms in the WB. This cooperation has continued under WeBER2.0. At the national level, in each of the WB countries, we have coordinated our work with PAR ministries and/or offices which have had an associate role on the project. At the regional level, WeBER2.0 is cooperating with the Regional School of Public Administration (ReSPA), Southeast Europe Leadership for Development and Integrity (SELDI) coalition, and the Support for Improvement in Governance and Management initiative (SIGMA, a joint initiative of the EU and the OECD), which performs regular assessments of the WB countries' progress in the implementation of the Principles of Public Administration in the period leading up to the EU accession.

Furthermore, within the regional WeBER Platform and National PAR Working Groups (NWGs), we have continued to cooperate with over a 130 CSOs operating at the local and regional level.

EXECUTIVE SUMMARY

WHY IS PAR MONITORING BY THE CIVIL SOCIETY STILL RELEVANT?

Public administration reform (PAR) remains a key requirement for the EU aspirants on their accession path, and according to the revised enlargement methodology it is now part of the cluster on fundamentals (together with, for instance, rule of law, and economic criteria). As a complex and all-encompassing reform, PAR in the Western Balkan region has for years been thoroughly assessed through the lenses of the SIGMA Principles of Public Administration, developed by the OECD/SIGMA and endorsed by the EU. These Principles define what makes a well-functioning administration in terms of its ability to deliver transparent, efficient and effective services to citizens and to support socio-economic development.

In the context of high external pressure for tangible developments in PAR, homegrown demand for better administration becomes even more important to keep pressuring the government to pursue reforms once the external conditionality dissipates as a result of a completed EU accession process. Civil society actors, with local knowledge of the administration's functioning, can lead such domestic advocacy efforts aimed at better administration. Independent PAR monitoring and evidence-based dialogue with the government represent a good approach to achieve this goal.

WEBER MONITORING APPROACH – FOCUS ON THE NEEDS OF CIVIL SOCIETY AND THE PUBLIC

Based on such a rationale, the WeBER project has completed its second, 2019/2020 monitoring cycle (Starting from December 2019, WeBER is being implemented under the title "WeBER2.0 - Western Balkan Civil Society Empowerment for a Reformed Public Administration".) Its structured and evidence-based approach to PAR monitoring, just like in the first monitoring cycle in 2017/18, particularly focuses on PAR aspects with the highest relevance to the civil society and to the public.

WeBER PAR monitoring strongly relies on the strengths, skills, and local knowledge of the civil society in the Western Balkans. It builds on SIGMA's Principles of Public Administration as a cornerstone of PAR, while assessing them from the standpoint of an independently produced PAR Monitor methodology. Overall, the methodology, slightly revised using the lessons learned in the first monitoring cycle, is based on the selection of 22 SIGMA principles within six key areas, monitored and reported through 23 compound indicators.

The PAR Monitor methodology is rooted in the regional approach. The design of all WeBER indicators enables comparisons between the administrations in the Western Balkans and allows for regional comparability of results. In addition to the methodology, the PAR Monitor package comprises a comparative monitoring report for the entire WB region as well as six reports which elaborate on detailed findings for each administration. The present report provides results of the second monitoring exercise for Montenegro, including a set of actionable recommendations.

OVERVIEW OF WEBER MONITORING RESULTS FOR MONTENEGRO 2019/2020

STRATEGIC FRAMEWORK FOR PUBLIC ADMINISTRATION REFORM

This is still the only area of monitoring where Montenegro has a better score than other countries in the region. This is mostly due to inclusion of CSO representatives in the central body for overseeing the implementation of the PAR Strategy, as well as formal practices of consultations with the public in preparation of some of the key PAR-related documents, although the PAR Council all but stopped meeting in this period of monitoring.

The level and intensity of consultations with CSOs in the preparation of various PAR-related strategic acts was varied - mostly focused on the PAR Strategy, the least on the PFM programme. Besides the activities of the administration, this was also due to the level of interest among the CSOs for the particular documents.

For all the all the key strategic PAR documents formal public consultations were organised. Early phase public consultations were held for the PAR Strategy and the Information Society Development Strategy 2016-2020, but not for the PFMRP. Additional public consultations (after the formal process of consultations was over) were held only for the PAR Strategy.

In the process of development of key PAR documents, comments and suggestions coming from CSOs have mostly been considered, but rarely endorsed in any substantial way, with reports from public consultations lacking in detail, vague and unsubstantiated on why a certain suggestion was not accepted.

When it comes to overseeing the implementation of the PAR Strategy and participation of CSOs, administrative structure for PAR coordination in Montenegro does not include representatives of CSOs, while the political level PAR Council does. Formal conditions of the Council's work are commendable, particular compared to similar bodies in the region. However, the role and impact of the Council on the key PAR processes as well as its substantial contribution to the documents it discusses is assessed as negligible and it only held three sessions in two years.

POLICY DEVELOPMENT AND COORDINATION

Government is publishing information about its activities on a regular basis, although there is no practice of reporting on the activities of governmental working bodies. Quarterly reports on the work of Government provide only a dry numerical overview of the level of implementation of planned activities, entirely devoid of any qualitative assessments or information about the impact or performance of the Government.

Publishing of materials from the Government's sessions is well regulated and applied in practice, with an important caveat when it comes to handling of confidential materials on the agenda. In cases when a material that has been classified with a certain degree of confidentiality is discussed at the session, this material is not published on the Government sessions webpage, neither in its redacted form nor does the agenda even mention that it was discussed at all. Emergency sessions and the period of COVID-19 disrupted the established practices and caused lower level of transparency.

When it comes to formal consultation procedures in Montenegro, do not provide conditions for an effective involvement of the public policy-making processes, and that even these procedures, such as they are, have problems in implementation. Public consultations are much rarer in the cases of policy documents, than regarding bills. So called early consultations are much rarer and are done for less than 10% of all policy documents and bills. Reports on consultations are published in almost all cases, but they suffer from low quality. Central consultation portal is not being used by the citizens even though it satisfies formal criteria of quality and interactivity. In the end, almost 60% of the received comments from the public are rejected by the authorities, though the figure is impacted by the poor reporting on conducted consultations.

Survey of CSOs in the region shows that Montenegrin CSOs least expect to be invited by the government institutions to prepare or submit policy papers, studies or impact assessments. In the region, it is the CSOs in Montenegro that claim they receive the least feedback on their proposal while working in working groups.

Frequency of referencing of CSOs findings in the adopted government policy and strategic documents is low and shows that ministries do not use the evidence provided by the civil society when developing policy documents in specific policy areas.

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

In two out of six indicators, the situation is unchanged compared to the last round of monitoring, while in remaining four slight progress has been registered.

Apart from slight progress in the area of HR information system, availability of data on the public service in Montenegro is still severely limited. The only document where basic official data pertaining to the public service can be found is the Personnel Plan, which, although a legal obligation, is not published regularly. It does not have data on the number and structure of staff engaged on contracts outside of the scope of civil service law (*ugovori o djelu*), staff (experts) engaged on technical assistance projects, nor on the gender structure of the public service. There is no specific civil service annual report in Montenegro. HRMA's annual report does not cover career development (promotions and demotions), salaries/wages, corruption/integrity issues and measures, disciplinary procedures and decisions nor qualitative assessments of the state of play in the civil service, professionalisation, improvement of capacities or depoliticisation.

The number of temporary engagements for performing tasks characteristic of civil service in the central state administration is not limited by law. The Law on Civil Servants and State Employees states that the same procedure of employment applies to fixed-term contracts employees, as well as in the general employment, but there are exceptions in recruitment done outside of this law, and therefore without an open and transparent procedure. When it comes to how long can fixed-term contract actually last, legal limitations to duration do exist, but are too flexible and allow for other laws to extend the deadline if necessary.

The Government is not obliged to appoint the first-ranked person in the public competition process for senior managers. Its Commission for Personnel and Administrative Issues, whose work is not transparent, has vetting competencies in regards to appointments, not foreseen in the Law on Civil Servants and Employees.

Almost 70% senior-level appointments in the monitoring period were conducted without a public competition procedure. There is a tendency of extending the mandate of acting position senior managers by adopting a new decision on appointment after the current one expires, thereby circumventing the six-months limitation.

The civil service remuneration system is assessed as partially simply structured, mainly because of notable exceptions to the classification of pay grades, such as the exceptional staff, which are vague and with no criteria provided. Remuneration system is made less transparent by the possibly significant increases to the base salary, through a system of supplements whose limits are sometimes unclear, left to be regulated by collective bargaining agreements, with mutual exclusiveness of some of these types of supplement pay not foreseen.

ACCOUNTABILITY

In the area of accountability, as measured by WeBER, Montenegro is still well behind other countries in the region with the lowest overall scores for two indicators.

Civil society perception of the quality of legislation and practice of access to public information in Montenegro reveals considerable problems in this area.

Quality of FOI legislation is perceived as particularly poor, especially when compared to regional results. Montenegrin NGOs are the most critical of the exceptions to the public character of information in the region, both in how they are regulated in the law and applied in practice. Deadlines for answering a FOI request are most often broken in Montenegro, where NGOs also seem to be paying the most for accessing the information.

Situation is somewhat better when it comes to the format in which the answer is received, with most of NGOs agreeing it is provided in the requested format. Also, the principle that administration should not inquire into reasons for requests for information, seems to be applied the most consistently in Montenegro.

Responses of NGOs are also positive when it comes to how the authorities are dealing with releasing information marked as classified or containing personal data, though most of NGOs are suspecting foul play when only portions of classified materials are released.

NGOs in Montenegro were especially and consistently critical about the work of the Agency for Personal Data Protection and Free Access to Information, which is the supervisory institution for FOI whose work is assessed most poorly in the region. NGOs are especially critical of Agency not setting sufficiently high standards of the right to free access to information, as well as to the effectiveness of its soft measures and sanctions.

When it comes to proactive informing of the public, research revealed problems extending beyond non-compliance to legal requirements in this area. Information on lines of accountability of the institutions is lacking for the entire sample. Most of the sample institutions have sections containing relevant policy documents and legal acts, although they vary greatly in how much they make sure that the available documents are the latest versions. On the other hand, publishing of analytical materials is much scarcer, with the most notable lack of publishing of regulatory impact assessments by the ministries.

Annual reporting is regular and easily accessible, although there are significant exceptions in subordinate institutions. Budgetary information are usually not published on the websites, and even where they are, updates are not regularly made following budget amendments. Situation regarding availability and completeness of organigrams has improved considerably compared to the last round of monitoring.

There is a sharp contrast between ministries and subordinate institutions in the way the information on how they cooperate with civil society and other external stakeholders (including public consultation processes) is presented.

Regarding open data most of the observed institutions have not published any databases in machine-readable formats.

In general, most of the key documentation required for measuring this indicator has met the conditions of accessibility, but in measuring the degree of efforts of authorities to present their data and documents in a citizen-friendly way, little or no initiative has been registered.

SERVICE DELIVERY

Some of the results in Service delivery component are somewhat better in this round of monitoring, as the citizens appear to be more informed about the existence of e-services and have more experience of use, likely caused by the fact that the survey was done in the midst of COVID19 measures that restricted access to administrative services in the traditional way in many cases. Also, incremental progress in other dimensions such as citizens' perception of governments efforts in simplification of procedures and digitalisation was registered.

There has been progress in the percentage of citizens who are aware of feedback opportunities for the administrative services. Also, the awareness of the efforts of civil society in monitoring of these services has doubled since the last round, with most of citizens claiming that such activities have resulted in improvement of administrative services.

Out of observed administrative services, only the Tax Administration has provided at least basic information about user feedback, as it had contracted an external agency to conduct a public opinion survey about its work, including feedback on various aspects of the services it provides.

When it comes to accessibility of administrative services for persons with disabilities and other vulnerable groups of population, results of CSO perception in the entire region show an extremely low level of satisfaction with the current state of affairs.

Websites of administrative service providers mostly do not provide basic procedural information on how to access the services, with Tax Administration as a positive exemption.

Regarding presentation of the costs, out of observed service providers, only the Ministry of Interior is transparent about the costs of its services. This is particularly problematic in the case of Tax Administration,

which advertises the use of its e-portal for companies but fails to mention that a precondition for using it is the digital certificate provided at a considerable price.

PUBLIC FINANCIAL MANAGEMENT

Assessment of transparency and accessibility of information, as well as external communication and proactive and citizen-friendly approach in the key areas of public financial management in Montenegro, exposed a lack of efforts and considerable deficiencies.

Availability and transparency of key budgetary documents in Montenegro is limited. There is no dedicated website section where enacted budget laws (and their amendments) as well as execution reports can be accessed on place. Monthly or any kind of in-year budget execution reporting by the Ministry of Finance is not a legal obligation in Montenegro. Although some irregular in-year reporting does happen, none of it is submitted to the Parliament and reports that are produced do not present budgetary data in all three budgetary classifications (organisational, functional, economic). Year-End Budget Reports do not contain performance data, as there are no set performance targets, precisely defined indicators nor comprehensive data on the outcomes of expenditures. There is no current citizen-friendly presentation of the annual budget and budgetary data is not published in any open data format.

Availability and communication of essential documents and information on public internal financial control (PIFC) to the public and other stakeholders is at very low level. CHU does not publish the results of the internal audit quality reviews, although it performs them. Only two Ministries publish any information about the financial management and control. CHU does not proactively engage with the public to promote PIFC or its effects in any form (interviews, press releases, promotional material, reader friendly digests or social media). On the other hand, the Parliament has no involvement in monitoring of the PIFC system whatsoever and does not deliberate on the consolidated report on PIFC.

State Audit Institution's communication and cooperation with external stakeholders is not well developed, although there has been progress compared to the last round of monitoring. SAI now does have a separate communication strategy, while its reports now mostly do contain what can be assessed as a citizen-friendly summary. Personnel for communication with external stakeholders not all the planned positions from the systematisation act are filled. Except for sporadic press conferences, in the monitoring period SAI did not use social networks for promotion of its work, nor did it have promo materials public campaigns or interactive data presentation and visualisation. There are no channels for submitting complaints or initiatives to SAI by external stakeholders (wider public, CSOs). When it comes to cooperation with CSOs (that would go beyond simple answering of FOI requests), monitoring shows no effort on SAI's part, no consultations organised and no use of CSOs' findings in the reports or in the risk identification phase.

For the first time, WeBER looks into transparency and citizen-friendliness aspects in the public procurement area, with results in Montenegro being the highest in the region. Both the overall public procurement policy reports, central review body reports as well as the individual public procurement plans and reports are published regularly. Reporting on public procurement by the central procurement can be assessed as citizen-friendly and accessible. However, no effort in publishing PP data in open data format was registered. There are problems when it comes to PP portal and its functions and especially the frequent reconstruction of portals which do not include the data for the previous periods covered by their older iterations. A significant percentage of procurements were done in a procedure that is not competitive (higher than 15% of the overall procedures).

To address the identified weaknesses, this report proposes recommended actions. The detailed list of recommendations is provided at the end of each chapter on individual PAR areas, based on findings from this monitoring cycle. Since most of the recommendations from the 2017/2018 PAR Monitor proved to be still highly relevant, a great number of them is repeated, and some slightly modified, to be more in line with changes in legal or institutional frameworks in Montenegro, or to give them more clarity.



INTRODUCTION

I.1 PUBLIC ADMINISTRATION REFORM AND THE WESTERN BALKANS' EU INTEGRATION – WHY IS MONITORING IMPORTANT?

Since the publication of the first edition of the Western Balkan PAR Monitor in 2018, the Western Balkan region (WB) has continued slowly their path towards further democratisation and modernisation of its societies, implementing the necessary structural, economic, and social reforms to improve the lives of citizens. These reform processes were, from their onset, stimulated by aspirations of becoming members of the EU, and they continue to be driven by the EU integration process and its inherent conditionalities. Good governance lies at the heart of the European integration project, requiring public administrations to be professional, reliable and predictable, open and transparent, efficient and effective, and accountable to their citizens.

With the new strategy of the European Commission issued in early 2020, public administration reform (PAR) was reaffirmed as an area of fundamental reform in the EU's enlargement policy. Accordingly, PAR joined the areas of rule of law, economic governance, and the functioning of democratic institutions as the basic pillars of reform which will constitute the foundation for the overall assessment of progress of aspiring EU members.

The EU's framework for defining, guiding, and assessing administrative reforms in the context of enlargement has remained embedded in the set of Principles of Public Administration. Established in 2014, these principles, known as the "SIGMA principles" (since they are assessed regularly by the OECD's SIGMA programme)¹ offer a roadmap for EU candidates to follow and comply with in PAR while working to become successful EU member states. The European Commission (EC) and SIGMA worked together to define the scope of these principles of public administration,² structured around six key areas:

1. strategic framework for public administration reform
2. policy development and coordination
3. public service and human resource management
4. accountability
5. service delivery
6. public financial management

These principles, thus, constitute the common denominator of PAR for all EU aspirants, guiding the course of their reforms in the direction of EU membership.³

WeBER⁴ adopted the Principles of Public Administration as the main building block of its PAR Monitor for two main reasons. On the one hand, as a common denominator for PAR reforms in the region, the principles allow for comparisons across the region, and regional peer learning and peer pressure among the WB administrations. On the other hand, the principles guide reforms in these countries towards the fulfilment of EU membership conditionalities, thus helping their transformations into future EU member states.

An important consideration in designing WeBER's monitoring approach lies in the understanding that until the EU accessions of the WB region, SIGMA/OECD will be engaged in the region, relying also on the

1 SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the OECD and the EU, principally funded by the EU. Its key objective is to strengthen the foundations for improved public governance, hence supporting socioeconomic development in the regions close to the EU by building capacities in the public sector, enhancing horizontal governance, and improving the design and implementation of public administration reforms, including proper prioritisation, sequencing, and budgeting. More information is available at: <http://www.sigmaweb.org/>.

2 Principles of Public Administration for EU candidates and potential candidates: <https://bit.ly/395dlWq>. A separate document entitled The Principles of Public Administration: A Framework for ENP Countries has been developed for the countries falling under the European Neighbourhood Policy (ENP): <http://bit.ly/2fsCaZM>.

3 SIGMA conducts regular assessments of the progress made by WB governments in their fulfilment of their principles. Across-the-board assessments (for all the six key areas) are conducted once every two-three years, and smaller-scale assessments are conducted in between for specific chapters that are evaluated as critical by SIGMA. For more information on SIGMA assessments, visit www.sigmaweb.org.

4 Starting from December 2019, WeBER is being implemented under the title "WeBER2.0 - Western Balkan Civil Society Empowerment for a Reformed Public Administration".

hard EU conditionalities as an external driving force of reforms. Until that time, local civil society can deliver complementary findings in their focus areas. Simultaneously, civil society should also gradually expand the scope of its monitoring and seek ways to continue with this process in a more holistic way in the post-accession period, when SIGMA will no longer have the mandate to perform external assessments of PAR. By that time, local civil society actors should have a developed approach in identifying critical areas of intervention on which to focus their monitoring efforts.

Moreover, although EU conditionality is currently ensuring regular external monitoring and assessment of reforms progress, previous enlargements have demonstrated that some countries have backslid in their reforms post-accession, effectively moving away from good governance standards. In several countries, governments have decreased their standards of transparency, administrations have been re-politicised, and anti-corruption efforts have faded. WeBER's rationale is that only by empowering local non-governmental actors and strengthening participatory democracy at the national and local levels can pressure on governments be maintained to implement often painful and inconvenient administrative reforms in the post-accession period.

In order to contribute to the empowerment of local civil society actors, WeBER has initiated multiple awareness raising and capacity building initiatives since 2015. In addition to involving and gathering the knowledge of CSOs in the PAR monitoring process and the creation of the PAR monitor reports, a number of regional CSOs were trained for PAR monitoring and advocacy. Moreover, local CSOs who monitor specific PAR areas at the local level were provided with mentoring. In addition, multiple rounds of consultations on the implementation of the PAR Monitor were organised in the framework of the regional WeBER platform, and SIGMA's principles were introduced to a wider group of CSOs in the region. Today, WeBER continues to initiate novel, civil-society approaches to PAR such as piloting monitoring exercises of mainstreaming PAR in different policy sectors, and the creation of six parallel online portals through which citizens are invited to share their experiences in interacting with public administrations.⁵

Finally, the outbreak of the COVID-19 pandemic is an additional reminder of the importance of well-functioning public administrations able to exercise primary functions of serving the needs of citizens. Moreover, these outstanding circumstances bring to the fore the issue of public administrations' ability to adapt and go the extra mile in delivering services digitally, enabling contactless, yet unhampered communication with citizens, and providing teleworking options for civil service employees.

Due to the impact of the COVID-19 pandemic, WeBER researchers produced PAR monitoring cycle 2019/2020 almost entirely as a remote exercise. This meant virtual communication and coordination within the WeBER research team and shifts in its approach of conducting field work (such as interviews and focus groups) in certain cases. Pandemic-related circumstances have, generally, had a limited impact on the project's findings, as most of the analysed practices took place in the pre-pandemic period (2019). Nevertheless, to some extent the pandemic slowed down the monitoring process as for a while it was more difficult to access public information with FOI requests. Other major obstacles, however, were not encountered.

I.2 THE PAR MONITOR METHODOLOGICAL APPROACH

■ EU principles as a starting point and common framework of reference

As mentioned above, WeBER approaches the monitoring of PAR in the Western Balkans from the perspective of uniform requirements posed by the EU accession process for the entire region. As the EU and SIGMA/OECD have developed a comprehensive set of principles for all countries to transform their administrations into modern, EU member states, WeBER has used these principles as the golden standard and a starting point for, firstly, developing and then implementing its own monitoring methodology. Moreover, in line with its overall

⁵ The citizens portals for the six administrations are available at: <https://citizens.par-monitor.org/>.

rationale, WeBER has emulated SIGMA's methods to create its own indicators, using a similar compound-indicator structure and the same scoring approach, with the quantification of elements (sub-indicators) and total scores assigned to indicator values on a scale from 0 to 5.

This approach acknowledges that SIGMA's comprehensive approach cannot and should not be replicated by local actors, as it already represents a monitoring source independent from national governments in the WB. In this sense, WeBER does not seek to present a contesting (competitive) assessment of how these principles are fulfilled in the WB administrations, but rather offer a complementary view, based in local knowledge and complementary research approaches.

■ The regional approach

An important facet of the WeBER monitoring of PAR is its regional character. The regional approach implies that all indicators are framed and phrased in a manner which enables application to six different systems that are assessed. Second, the regional approach means that findings are regionally comparable.

Such a regional approach admittedly results in some degree of loss of detail and national specificity in the monitoring work. However, it presents many benefits compared to nationally-specific approaches. First and foremost is the potential to compare different national results, which allows the benchmarking of countries and their systems, the recognition of good practices, as well as the rise of positive competition between governments. Last, but not least, it allows for the creation of regional knowledge and peer learning regarding PAR among CSOs, particularly useful for inspiring new initiatives and advocacy efforts at the national level.

■ Selection of principles “for and by civil society”

The PAR Monitor maintains a basic structure which follows the six chapters of the Principles of Public Administration. It does not attempt to monitor all the principles under each chapter, nor does it seek to monitor them in a holistic manner, but it rather adopts a more focused and selective approach. The criteria for selecting the principles to be monitored (and their sub-principles) were developed with three main ideas in mind:

- There are certain principles in which civil society is more active and consequently has more knowledge and experience;
- In order to gain momentum, the PAR Monitor will need to be relevant to the interests of the wider public in the region;
- The approach should ensure an added value to SIGMA's work and not duplicate it.

The WeBER monitoring approach utilises the experience and expertise accumulated within the civil sector in the region to the maximum extent possible. Therefore, a number of indicators rely on civil society as a core source of knowledge.

■ Focus on the citizen-facing aspects of administration

Another key criterion which has guided the WeBER's selection of principles (and sub-principles) is their relevance to the work and interests of the wider public. This means that both the selection of the principles and the design of the indicators included questions such as: “Does the public care about this?” or “Is this aspect of public administration visible to ordinary citizens?” In keeping with this approach, the WeBER methodology retains a focus on the points of interaction between the administration and its users (citizens and businesses), while leaving out issues that constitute the internal operating procedures of the administration invisible to the public.

■ WeBER indicator design

The WeBER research team designed a set of compound indicators in 2016, with each comprising several elements (essentially sub-indicators), elaborating various aspects of the issue addressed by the entire indicator. The entire design of indicators is quantitative, in the sense that all findings – based on both quantitative and qualitative research – are assigned numerical values. Findings are used to assess the values of individual elements, assigning them total element scores of either 0 or 1 (for less complex assessments, such as those where a simple yes or no answer is possible) or 0 or 2 (for more complex assessments). Only integer values are assigned to elements.

Furthermore, for each element a weight of either 1 or 2 is applied. In principle, a weight of 2 is assigned to those evaluated as basic, key requirements in relation to a certain practice. A weight of 1 is applied to more advanced requirements, i.e. higher and more complex standards. For example, a weight of 2 would be applied for an element assessing a basic government reporting practice, whereas a weight of 1 would be applied to an element assessing whether the data in a report is gender sensitive or whether it is available in an open data format. Moreover, as most indicators combine different research approaches and data sources, in cases where perception survey findings are combined with hard data analysis, a weight of 1 is assigned to the former and a weight of 2 to the latter.

Finally, for each indicator there is a conversion table for transforming total scores from analyses of individual elements into values on a common scale from 0 to 5. The final indicator values are assigned only as integers, meaning, for instance, there are no half points assigned. The scoring and methodology details for each indicator are available on the PAR Monitor section of the WeBER website.⁶

■ Main methodological changes between the two PAR Monitors

Experience from the design of the monitoring methodology and the implementation of the first PAR Monitor resulted in the three main changes in relation to indicators in this monitoring cycle.

Firstly, in the Policy Development and Coordination area, the WeBER team has enhanced the indicator focusing on the quality of public participation (through various forms of public consultations) in policymaking. At first focusing only on perceptions of CSOs collected through an online survey, additional elements were added to assess the quality of public involvement in practice, examining a sample of public consultations on policy documents and legal acts. The improvement of this indicator also includes an assessment of governmental public consultation/participation portals through two new elements (sub-indicators). With this change, WeBER assessments in this PAR area were made more balanced in general, combining CSOs perceptions with hard evidence in each topic covered (which include governmental performance reporting, the use of evidence by central state administration bodies in policy development, and the transparency of governmental decision making).

Secondly, a couple of indicators that were initially planned for the first PAR monitoring cycle were at that time left out due to a combination of limited staff capacities and challenging workload. It was then agreed that a public-procurement-related indicator would be introduced in the second monitoring cycle. As a result, a new indicator has now been added to the Public Financial Management area, covering public procurement policy. Measured for the first time, this indicator on public procurement sets baseline values in this PAR Monitor.

Finally, one indicator in the Policy Development and Coordination area (focusing on the accessibility of legislation and explanatory materials to the public) was not included in this monitoring edition. The WeBER team reached a decision on this reduction at the beginning of this monitoring cycle. This decision came after internal deliberations on feedback received from CSOs in the region based on the survey conducted within the first monitoring cycle, and on the internal capacities of the research team to deal with an increased number of indicators. Consequently, in terms of the priority and urgency of addressing different PAR issues, it was decided that the indicator on legislation availability would give way to the indicator on public procurement.

⁶ WeBER project website: <http://www.par-monitor.org>. The methodology and individual indicator tables can be accessed within the PAR Monitor menu.

■ The PAR Monitor package

The PAR Monitor is composed of one regional, comparative report of monitoring results for the entire region and six national reports that elaborate the monitoring findings for each administration in greater detail. In line with this approach, the regional report focuses on comparative findings, regional trends, and examples of good or bad practices, but does not provide recommendations. The national reports, on the other hand, provide in-depth, country-specific findings and identify a set of recommendations for national policy makers for each PAR area.

The added value of the entire monitoring exercise is that it allows monitoring changes vis-à-vis baseline indicator values from the monitoring conducted in 2017/2018. It also allows stakeholders to reflect on the most important developments and trends in the implementation of policy and in the perceptions of key targeted groups. In certain cases, this reflection allows for some comparisons of results over time, as in the case of public perception surveys on administrative service delivery practices conducted on a representative sample of citizens. In cases of surveys of civil servants and CSOs, the 2019/2020 PAR Monitor allows us to monitor prevailing trends in the opinions of these stakeholder groups as compared to the baseline surveys.⁷

The “Master Methodology” document and the detailed indicator tables, all available on the WeBER website,⁸ should also be considered as part of the entire PAR Monitor package and can be used to fully understand the details of this monitoring exercise where needed.

The entire package of reports is also accompanied by an online tool for viewing and comparing the findings from different WeBER monitoring cycles, the Regional PAR Scoreboard. This database of all indicator values and the tables and graphs presenting those values can be found on the project website www.par-monitor.org, under the heading “PAR Monitor”. The scoreboard also includes a section for viewing and comparing SIGMA’s latest monitoring results for the whole region.

■ Quality assurance procedures within the monitoring exercise

As in the baseline monitoring cycle, this monitoring applied a multi-layered quality assurance procedure to guarantee that the PAR monitoring findings are based on reliable and regionally comparable evidence. That process included both internal and external expert checks and reviews of data. The internal process of quality control comprised two main elements:

1. a peer-review process, which involved different collaborative formats, such as written feedback, online team meetings and workshops;
2. once the scoring for each administration was finalised, the WeBER lead researcher and team leader performed a horizontal cross-check of the findings to ensure their regional comparability and an alignment of assessment approaches, thus preparing the analysis for the external review.

The two phases of the external quality control process include:

- fact-checking by government institutions in charge of the given assessed area;
- Following the drafting of the regional report, members of the WeBER Advisory Council and recognised international experts performed an expert review of the regional PAR Monitor chapters in line with their areas of expertise.

The national reports also underwent standard internal review procedures by each WeBER partner organisation.

7 As it was not possible to create representative, random samples for the populations of CSOs and civil servants, these two surveys were distributed throughout these two populations, and analysis was done on the received complete responses. Since the samples in the baseline and in this second monitoring cycle are, thus, not identical, the results are not fully comparable. Yet, the overall response rates are solid, allowing us to compare the trends between the two survey cycles.

8 WeBER project website: <http://www.par-monitor.org>. The methodology and individual indicator tables can be accessed within the PAR Monitor menu.

■ PAR Monitor 2019/2020 timeframe

The monitoring exercise was conducted between February and December 2020. For the most part, monitoring focuses on practices implemented in 2019 and the first half of 2020. The exception are those indicator elements looking at regularity of governmental reporting practices, where 2018 or 2017 were included as the base years due to the governments' reporting cycles or the requirements of specific indicators.

The individual indicator measurements indicate the exact periods of measurement, kept comparable across the region, which allow for the clear identification of timeframes of reference for all findings in the reports. Where situations have changed by the time of this report's writing, those changes will be reflected in the scores in the next biennial WeBER monitoring cycle and PAR Monitor 2021/2022.

■ Limitations in scope and approach

The main limitation facing this project stems from the fact that, for reasons which were elaborated above, the PAR Monitor does not cover the entire framework of SIGMA principles, but only those in which the interest of, and added value from, civil society is strongest in the pre-accession period. Moreover, selected principles are not always covered in every angle, but rather in those specific aspects which have been determined by the authors as the most relevant to approach them from the perspective of civil society monitoring. The specific WeBER approach used in all such cases is described in the project's methodology and individual indicator tables.

Importantly, bearing in mind that there was no SIGMA assessment for 2020, for this PAR Monitor cycle WeBER researchers performed their own calculation of the ten SIGMA sub-indicators that WeBER uses in the area of Public Service and Human Resource Management. Done in accordance with SIGMA's methodology, the results of these calculations are the sole responsibility of the WeBER research team and the authors of PAR Monitor reports, and SIGMA/OECD cannot be held responsible for the outcomes of such calculations.

Lastly, despite the changes made in the PDC indicator on inclusiveness of policymaking (elaborated above), some of the principles are still approached from a rather perception-based point of view. This is mainly the case for principles thoroughly monitored by SIGMA, as the most useful way to complement its approach was deemed to be by monitoring perceptions of certain key stakeholder groups (such as civil servants and CSOs). This is a deliberate component of the WeBER approach, and those indicators should be looked at as complementary to the assessments conducted by SIGMA for the same principles. Nevertheless, experience from the baseline monitoring cycle exposed limitations in certain cases when relying solely on perception data. An indicator on the inclusiveness and openness of policy making, which was previously entirely based on the perceptions of CSOs, was thus complemented with hard evidence so as to have a more balanced assessment, as described in the section on methodological changes. Such change brought about more objective assessment, as can be seen in this report's analysis. However, the new elements which analyse public consultation practices did not significantly change the picture previously created on the basis of CSO perceptions much, so that the indicator values have mainly changed from 0 to 1 in the region on average. In the period ahead, WeBER will consider changes if similar adjustments are needed in other indicators, with the view of improving the overall quality of its monitoring albeit keeping in mind the need to maintain a level of comparability between WeBER findings from different monitoring cycles.

In terms of geographical scope, the monitoring exercise and PAR Monitor cover the six administrations of the WB region, in accordance with the EU definition of the region.⁹ For BIH, WeBER has again focused predominantly on state level institutions wherever the structures and practices of institutions are analysed. The only exceptions to this are the service delivery indicators, where sampled administrative services include those provided by lower levels of governance in BIH (such as entities).

9 European Commission's Enlargement package, and progress reports, are available at: https://ec.europa.eu/neighbourhood-enlargement/countries/package_en (last accessed on 1 June 2021).

I.3 STRUCTURE OF THE NATIONAL PAR MONITOR REPORT

This report follows a standard outline established for the baseline PAR Monitor, and is divided into six chapters, pertaining to the core areas of PAR: 1) strategic framework for public administration reform, 2) policy development and coordination, 3) public service and human resource management, 4) accountability, 5) service delivery, and 6) public financial management. Each chapter follows an identical structure.

In each chapter introduction, the reader is briefly introduced to the WeBER indicators used in the observed PAR area and their values for Montenegro, on a scale from 0 to 5. Immediately after, a brief state of play in Montenegro is given to contextualize the analysis for the observed area, based on existing secondary sources. The state of play sections in this National PAR Monitor largely rely on the latest European Commission progress report for Montenegro for 2020, but also refer to other relevant sources. State of play is followed by the WeBER monitoring focus, describing the methodological steps in more detail, and methodological changes where applicable, illustrating the structure of each principle and indicator, including data collection and analysis methods.

The key section of each chapter is the presentation of WeBER monitoring results, stemming from thorough and methodologically robust research conducted in Montenegro. For each PAR area, indicator values, and scores of their elements, are presented for both WeBER monitoring cycles (for 2017/2018, and 2019/2020 cycle), allowing easy insight and comparison of monitoring results for the two PAR monitoring exercises. A summary of results for each area is given at the end of each chapter and presents key, succinct one-page findings and trends.

Finally, section on recommendations consists of two parts in this National PAR Monitor. Firstly, based on the detailed tracking, implementation status of recommendations proposed in the PAR Monitor 2017/2018 is given, with colour codes assigned and explanations as to why recommendation was assessed in certain way (e.g., fully, or partially implemented, initiated, or no action taken). Secondly, based on the detailed elaboration of findings for Montenegro from this monitoring cycle, the report proposes actionable recommendations for the responsible government authorities. Since most of the recommendations from the 2017/2018 PAR Monitor proved to be still highly relevant, a great number of them is repeated and some slightly modified, either to adjust them to the changed national context or to make them clearer and more specific.



STRATEGIC FRAMEWORK FOR PUBLIC ADMINISTRATION REFORM

II.1 WEBER INDICATORS USED IN STRATEGIC FRAMEWORK FOR PAR AND COUNTRY VALUES FOR MONTENEGRO



II.2 SUMMARY RESULTS FOR THE STRATEGIC FRAMEWORK FOR PAR AREA

Strategic framework of the Public Administration Reform is still the only area of monitoring where Montenegro has a better score than other countries in the region. This is mostly due to inclusion of CSO representatives in the central body for overseeing the implementation of the PAR Strategy, as well as formal practices of consultations with the public in preparation of some of the key PAR-related documents, although the PAR Council all but stopped meeting in this period of monitoring.

The level and intensity of consultations with CSOs in the preparation of various PAR-related strategic acts was varied - mostly focused on the PAR Strategy, the least on the PFM programme. Besides the activities of the administration, this was also due to the level of interest among the CSOs for the particular documents.

For all the all the key strategic PAR documents formal public consultations were organised. Early phase public consultations were held for the PAR Strategy and the Information Society Development Strategy 2016-2020, but not for the PFM RP. Additional public consultations (after the formal process of consultations was over) were held only for the PAR Strategy.

In the process of development of key PAR documents, comments and suggestions coming from CSOs have mostly been considered, but rarely endorsed in any substantial way, with reports from public consultations lacking in detail, vague and unsubstantiated on why a certain suggestion was not accepted.

When it comes to overseeing the implementation of the PAR Strategy and participation of CSOs, administrative structure for PAR coordination In Montenegro does not include representatives of CSOs, while the political level PAR Council does. Formal conditions of the Council's work are commendable, particular compared to similar bodies in the region. However, the role and impact of the Council on the key PAR processes as well as its substantial contribution to the documents it discusses is assessed as negligible and it only held three sessions in two years.

II.3 WHAT DOES WEBER MONITOR AND HOW?

Monitoring the Strategic Framework of Public Administration Reform is based on three SIGMA Principles in this area, focusing on the existence of effective PAR agendas, the implementation and monitoring of PAR, as well as on the existence of PAR management and coordination structures at the political and administrative levels.

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

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

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

The selected principles are assessed entirely from the view of the quality of civil society and the public involvement of in the processes of developing PAR strategic documents, and in participation in the monitoring and coordination structures that should ensure their purposeful implementation. A focus on inclusiveness and participation aims to determine the extent to which relevant stakeholders' needs and views are consulted and taken into consideration when developing and implementing reform agendas.

For this purpose, two WeBER indicators were developed. The first one focuses on the existence and quality of consultation processes in the development of key PAR strategic documents. A sample of up to six key PAR strategic documents was assessed in each Western Balkan administration. The most comprehensive PAR documents (PAR strategies or similar) and PFM reform documents were selected as mandatory sample units, while the selection of other strategic documents covering the remaining PAR areas was dependent on PAR agendas currently in place. Monitoring was performed by combining data sources to ensure the reliability of results, including the qualitative analysis of strategic documents, and official data that is publicly available or obtained from institutions responsible for PAR. Moreover, analysis of documents was corroborated with the results of semi-structured interviews with representatives of institutions responsible for PAR and focus groups with civil society representatives who participated in consultation processes (where it was impossible to organise focus groups, they were replaced with interviews with civil society representatives). Since strategic documents usually cover multiple years, and their adoption or revision does not necessarily coincide with WeBER monitoring cycles, findings from the baseline PAR Monitor 2017/2018 were carried over for strategic documents that did not undergo revision or were not updated at the time of WeBER monitoring.

For Montenegro, therefore, the analysis under this indicator included:

- Public Administration Reform Strategy,
- Public Finance Management Reform Programme,
- Strategy for Development of Information Society.

The monitoring of the participation of civil society in PAR implementation (in PAR coordination and monitoring structures) considered only the most comprehensive PAR strategic documents being implemented as units of analysis. The intention of this approach was to determine whether efforts exist to better facilitate monitoring and coordination structures in PAR agenda generally. As for the first indicator, review and qualitative assessment of official documents pertaining to the organisation and functioning of these structures was performed, and other data sources were used to corroborate the findings.

II.4 STATE OF PLAY IN THE STRATEGIC FRAMEWORK OF PAR

Public Administration Reform Strategy for the period 2016-2020 is the cornerstone of strategic framework of PAR in Montenegro. Its integral part, although developed and adopted as a separate strategic document prior to the adoption of the PAR Strategy, is the Public Finance Management Reform Programme 2016-2020. More detailed measures in the area e-government reform are laid out in the Strategy for Development of Information Society 2016-2020. These three documents cover all the of the six areas of SIGMA's Principles of Public Administration¹⁰ and are chosen the most relevant for this WeBER monitoring report.

PAR Strategy for the period 2016-2020 was adopted in July 2016¹¹ along with its Action Plan, after a process of various public consultations, working group, work with SIGMA and analysis of the achievements of the previous PAR Strategy that started in late 2014. The Strategy matches the structure of SIGMA's Principles of Public Administration, covering all of the six chapters, referring to the PFMRP under the Chapter 4.5 on PFM, stating that the goals in that area are defined in this document, without repeating them. Additionally, it also covers certain issues related to the local administration level.

Public Finance Management Reform Programme 2016-2020 was developed in parallel with the PAR Strategy, though it took a shorter amount of time, considerably less preparatory activities and inclusion of the public in its preparation, save for the formal public consultation process. It was adopted in December 2015¹², then amended in 2017¹³ and 2018.¹⁴ It was developed by the working group consisting of representatives of the Ministry of Finance and its administrative bodies (Tax Administration and the Public Procurement Administration), with consultations with the State Audit Institution. CSOs were not invited to take part in the working group, there were no early phase consultations with the public and only the formal public debate was held, with a single NGO contributing. Its third revision, in 2018, was accompanied by a public consultation process.¹⁵

Strategy for Development of Information Society 2016-2020 was adopted in July 2016¹⁶. It was included in this monitoring report due to chapters on e-Government (meaning e-Services and development of the e-Government portal), open data as well as specific service oriented chapters on e-Health, e-Education, e-Inclusion, that deal with the way how the public services should be reformed using the ICT in order to improve their ease of use and make them more citizen-oriented.

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

11 Adopted Strategy and conclusions of the Government from the session held on 28 July 2016, are available at: http://www.gov.me/sjednice_vlade/167 (under point 5)

12 Adopted version of the PFMRP and conclusions of the Government, at the session of the Government of Montenegro held on 03 December 2018, available at: http://www.gov.me/sjednice_vlade/138 (point 14 in the agenda).

13 PFMRP was amended so as to include areas of state aid, customs and auditing of EU funds, new version was adopted by the Government of Montenegro at the session held on 30 June 2017, available at: http://www.gov.me/sjednice_vlade_2016/32, (point 9 in the agenda).

14 Additional amendments to PFMRP were adopted by the Government of Montenegro at the session held on 28 June 2018, available at: http://www.gov.me/sjednice_vlade_2016/83 (point 13 in the agenda).

15 A ten-day public consultation process was held in June 2018 regarding the revision of PFMRP, without an indication of what are the aims of the revision or any additional information. After the consultations, no report was published. Call for consultations is available at: http://www.mif.gov.me/rubrike/javne_rasprave/185628/Javna-rasprava-povodom.html

16 Strategy and the conclusions adopted at the session of the Government of Montenegro held on 21 July 2016, available at: http://www.gov.me/sjednice_vlade/166 (point 5 on the agenda).

II.5 WEBER MONITORING RESULTS

PRINCIPLE 1: THE GOVERNMENT HAS DEVELOPED AND ENACTED AN EFFECTIVE PUBLIC ADMINISTRATION REFORM AGENDA THAT ADDRESSES KEY CHALLENGES

WeBER indicator SFPAR_P1_I1: Use of participatory approaches in the development of key strategic PAR documents.

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| E.1 Consultations with civil society are conducted when the documents are developed | 2/4 | 2/4 |
| E.2 Consultations with civil society are conducted in an early phase of the development of the documents | 2/4 | 2/4 |
| E.3 Invitations to civil society to participate in the consultations are open | 4/4 | 4/4 |
| E.4 Responsible government bodies are proactive in ensuring that a wide range of external stakeholders become involved in the process | 0/2 | 0/2 |
| E.5 Civil society is provided complete information for preparation for consultations | 4/4 | 4/4 |
| E.6 Comments and inputs received in the consultation process are considered by the responsible government bodies in charge of developing key PAR strategic documents | 4/4 | 4/4 |
| E.7 Responsible government bodies publicly provide feedback on the treatment of received comments | 0/2 | 0/2 |
| E.8 Responsible government bodies engage in open dialogue with civil society on contested questions | 0/2 | 0/2 |
| E.9 Consultations in the development of strategic PAR documents are open to the public | 4/4 | 4/4 |
| Total score | 20/30 | 20/30 |
| Indicator value (scale 0 – 5)¹⁷ | 3 | 3 |

For all the all the key strategic PAR documents formal public consultations were organised, while other forms of consultations with the public were used in the same uniform manner. Early phase public consultations were held for the PAR Strategy and the Information Society Development Strategy 2016-2020, but not for the PFMRP. Additional public consultations (after the formal process of consultations was over) were held only for the PAR Strategy.

When it comes to openness of calls and invitations for the public to take part in the consultations on key PAR documents, all the calls are as a rule published on the websites of the ministries in charge,¹⁸ as well as on the E-Government portal, on its public consultations section.¹⁹ Other than that, Ministries also use the most popular NGO Forum, maintained by the Centre for Development of NGOs²⁰ to spread the word among the NGO community. No evidence was found that any Ministry used its social media accounts or other means to increase the visibility of these calls and enhance the participation of public in the consultations. Additionally, there are no on-line forms for applying for participation or providing contributions. The E-Government's segment on public consultations does not have any interactive components, it only duplicates the static content already published

17 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

18 Example for the PAR Strategy: Public call for the start of the public consultation process, available at: http://www.mup.gov.me/ministarstvo/Javne_rasprave/149935/javni-poziv-zainteresovanoj-javnosti.html

19 E-Government portal's section for public consultations: <http://www.euprava.me/eparticipacija/lista-javnih-rasprava>

20 A public Google group forum, available at: <https://groups.google.com/forum/#forum/crnvo>

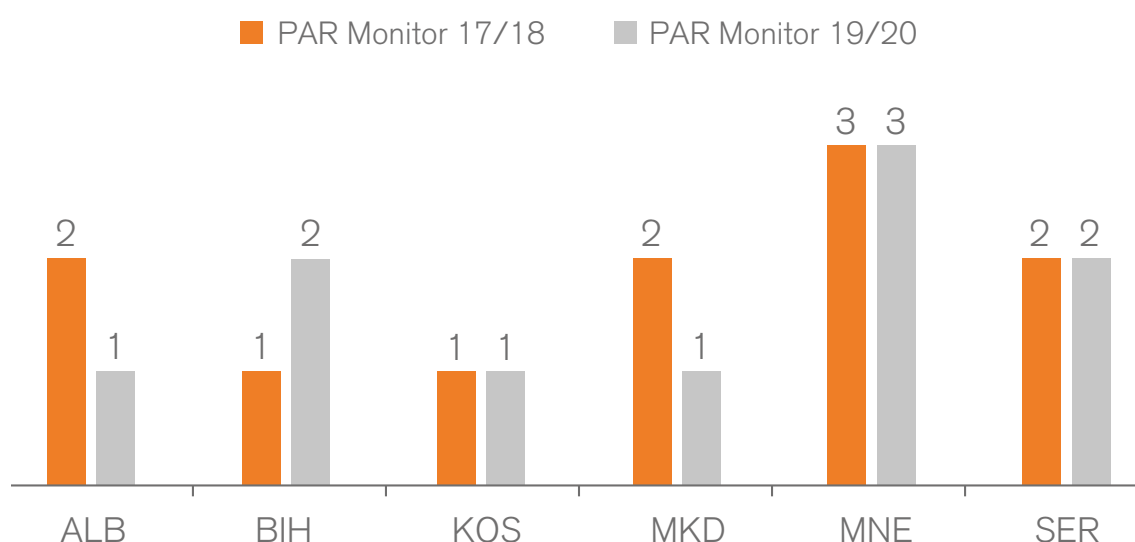
by the Ministry sponsoring the document, without the possibility to apply directly for public consultation events or provide suggestions and comments using the portal.

In the process of development of key PAR documents, the comments and suggestions coming from the CSOs have mostly been considered, but rarely endorsed in any substantial way. The way that the institutions report on the feedback to suggestions received during the public consultations process was defined in a very broad manner, leaving space for free interpretations and incomplete reporting.²¹ Reports from early consultations are rarely produced, but even if they are they do not contain any information on the treatment of the suggestions that have been received. Reports from the formal consultations processes are mostly not comprehensive and do not give feedback on each comment or suggestion received, with those explanations for rejecting a certain suggestion often being vague or unsubstantiated. Minutes or other documentation that would shed light on the manner of work in the working groups for the development of PAR Documents is not made public in any form.

When it comes to additional consultations, a form of these consultations was held only for the PAR Strategy.²² No evidence was found that additional consultations with the public (after the formal public consultation was over) ever took place for the PFMRP or the Strategy for Development of Information Society.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator SFPAR_P1_I1: Use of participatory approaches in the development of key strategic PAR documents



21 The new regulation, Decree on the selection of NGO representatives in the state administration working bodies and the conducting of public consultations for preparation of laws and strategies (Official Gazette of Montenegro, 041/18), prescribes the structure in more detailed manner, although institutions are still not obligated to respond to each comment: the official template (annex 5) of the decree, for public consultation reports has a field where the institution needs only to summarise the comments that were received and their answers, regardless of the number of comments that were submitted. Decree and annexes can be accessed here: <http://www.mrt.gov.me/pretraga/189093/Uredba-o-izboru-predstavnika-nevladinih-organizacija-u-radna-tijela-organa-drzavne-uprave-i-sprovođenju-javne-rasprave-u-priprem.html>

22 Ministry of Interior organised an additional consultation, lasting 15 days, after the formal process of public consultations was finished, in order to obtain additional views and comments on the draft PAR Strategy: http://www.mup.gov.me/ministarstvo/Javne_rasprave/155277/Javni-poziv.html

PRINCIPLE 2: PUBLIC ADMINISTRATION REFORM IS PURPOSEFULLY IMPLEMENTED; REFORM OUTCOME TARGETS ARE SET AND REGULARLY MONITORED

PRINCIPLE 4: PUBLIC ADMINISTRATION REFORM HAS ROBUST AND FUNCTIONING MANAGEMENT CO-ORDINATION STRUCTURES AT BOTH THE POLITICAL AND ADMINISTRATIVE LEVELS TO STEER THE REFORM DESIGN AND IMPLEMENTATION PROCESS

WeBER indicator SFPAR P2_4 I1: Civil society involvement in the PAR monitoring and coordination structures.

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| E.1 Administrative structures for PAR coordination and monitoring foresee an involvement of CSOs | 0/2 | 0/2 |
| E.2 Political level structures for PAR coordination foresee an involvement of CSOs | 2/2 | 2/2 |
| E.3 Format of CSO involvement in administrative structures for PAR coordination and monitoring | 0/4 | 0/4 |
| E.4 Format of CSO involvement in political structures for PAR coordination and monitoring | 4/4 | 4/4 |
| E.5 Involvement of CSOs is achieved based on an open competitive process | 2/4 | 2/4 |
| E.6 Meetings of the PAR coordination and monitoring structures are held regularly with CSO involvement | 0/4 | 2/4 |
| E.7 The format of meetings allows for discussion, contribution, and feedback from CSOs | 0/4 | 2/4 |
| E.8 CSOs get consulted on the specific measures of PAR financing | 0/2 | 1/2 |
| Total score | 10/26 | 13/26 |
| Indicator value (scale 0 – 5)²³ | 2 | 2 |

Intergovernmental operational team, formed in January 2018, serves as the administrative structure²⁴ for PAR coordination. It has 16 members, out of which none comes from the civil society. When it comes to PFMRP, an administrative structure for coordination and monitoring has been set up. Minister of Finance established the Coordination Group, which is comprised of its officials and representatives of various administrative bodies as well as State Audit Institution and the Parliament of Montenegro (Parliamentary Staff representative of the Budget Committee). This body prepares quarterly and annual reports on implementation of the PFMRP, and the annual ones are adopted by the Government, but are beforehand discussed at the PAR Council.²⁵ Some of the members of this Coordination Group are also members of the PAR Council (along with the Minister of Finance).

When it comes to “Managing and coordinating the reform” the Council for PAR has the key role. The strategy states that NGO representatives can participate in its work “upon invitation”. During the establishing of the Council, the Ministry of Public Administration launched an open call²⁶ to NGOs to apply for full-fledged membership in the Council, to which two candidates were proposed with the support of other organisations.²⁷ Composition of the Council has remained the same, with the exception of adding the country’s Chief Negotiator with the EU as a member in 2018.

23 Conversion of points: 0-5 points = 0; 6-9 points = 1; 10-13 points = 2; 14-17 points = 3; 18-21 points = 4; 22-26 points = 5.

24 WeBER’s PAR Monitor Methodology define these administrative structures as “those monitoring and coordination structures (working groups, task forces and other bodies) which comprise civil servants from the various administrative bodies involved in PAR implementation.”

25 The 2017 Report on implementation of PFMRP was the only point on the agenda of the fifth session of the PAR Council, official press release available at: <http://www.srju.gov.me/vijesti/182191/Odrzana-peta-sjednica-Savjeta-za-reformu-javne-uprave.html>

26 Public call, based on the procedure laid out in the Government Decree on the manner and procedure for cooperation of Government and NGO sector, available at: <http://www.mju.gov.me/vijesti/171470/Javni-poziv-nevladinim-organizacijama-za-predlaganje-kandidata-kinje-za-clana-Savjeta-za-reformu-javne-uprave.html>

27 List of NGO representatives that applied for membership in the PAR Council: <http://www.mju.gov.me/vijesti/171971/Lista-kandidata-kinja-za-clana-icu-Savjeta-za-reformu-javne-uprave.html>

PAR Council prepares and publishes annual reports on its work.²⁸ In 2018, Ministry of Public Administration prepared Guidelines for monitoring and reporting on the Public Administration Reform Strategy in Montenegro 2016-2020.²⁹ Each meeting of the PAR council is an opportunity for discussion, as its format entails presentation of official documents by representatives of institutions, followed by the discussion by the Council members. There is no limitation to the discussion, and the Chair of the Council has not denied the right to voice an opinion. Additionally, NGOs can send their own materials, propose points for the agenda or for convening a new session.

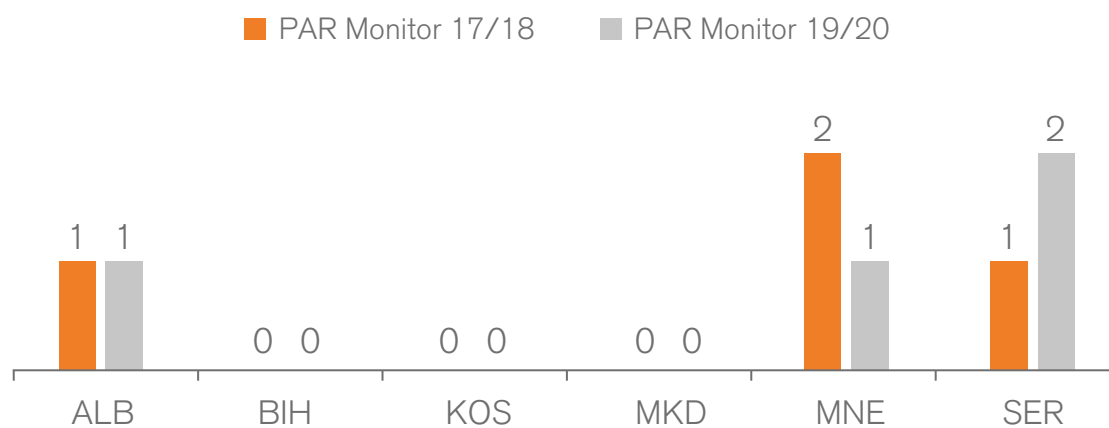
However, in the monitoring period only 3 sessions of the Council have been held. During 2020, a single session of the PAR Council was held.³⁰ During 2019, two sessions of the PAR Council were held, both in the first half of the year, while no sessions were held that year after May 2019.³¹ Since the last round of monitoring (2017/2018), 7 sessions in total have been held.³² Additionally, according to representatives of NGOs that are full-fledged members of the Council, several initiatives they submitted in order to convene sessions have not been answered. Because of the low number of sessions, as well as denial of CSO initiatives for convening sessions, thus effectively preventing discussion, contribution and feedback from CSOs, researchers awarded no points for this element.

Although financing of PAR was not a separate point on the agenda of any of the 3 sessions held in the monitoring period (2019 and 2020), overall reports on the PAR Strategy implementation also contain information about the financing of reforms - especially progress in EU funded projects. At the 12th session of the Council, financing of PAR through sector budget support was discussed, including the dynamics of tranches and the fulfilment of indicators required for releasing the payments. However, there were no discussion about the funding on domestic sources, inclusion of planning for PAR measures in the national budget cycle.

Key reason for decrease in this cycle's monitoring rating is the fact that the PAR Council stopped having regular meetings, some of the initiatives of its members have not been implemented and it did not discuss financing of the reform.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator SFPAR_P2&P4_I1: Civil society involvement in the PAR monitoring and coordination structures



28 Reports for 2017, 2018 and 2019 available at: https://srju.gov.me/biblioteka/Materijal_sa_sjednica/

29 Available at: <https://srju.gov.me/ResourceManager/FileDownload.aspx?rid=324877&rType=2&file=Smjernice%20za%20monitoring%20i%20izvještavanje%20Strategije%20reforme%20javne%20uprave%20u%20Crnoj%20Gori%202016%202020.pdf>

30 12th session, held on 19 June 2020: https://srju.gov.me/sjednice_savjeta/227704/Odrzana-dvanaesta-sjednica-Savjeta-za-reformu-javne-uprave-Ostvaren-napredak-u-procesu-reforme-javne-uprave.html

31 11th session, held on 15 May 2019: https://srju.gov.me/sjednice_savjeta/199351/Savjet-U-procesu-reforme-javne-uprave-ostvaren-napredak-u-kljucnim-ciljevima.html

10th session, held on 20 March 2019: https://srju.gov.me/sjednice_savjeta/197427/Odrzana-deseta-sjednica-Savjeta-za-reformu-javne-uprave.html

32 2017: 4, 2018: 5, 2019: 2, 2020: 1

II.6 RECOMMENDATIONS FOR STRATEGIC FRAMEWORK FOR PAR

TRACKING RECOMMENDATIONS FROM PAR MONITOR 2017/2018

| Recommendation | Status | Comment |
|---|-----------------------|--|
| The process of public consultations in preparation of key PAR strategic documents and their regular or ad hoc amendments should be showcases of best practices on how to organise a comprehensive, inclusive and open participation of public in policy-making. | No action taken | In the monitoring period no major PAR strategic documents were developed nor any bylaws regulating the process of their preparation amended. |
| Transparency of the sessions of the PAR Council should be ensured by inviting media to attend and report on it. | No action taken | The meetings were not open for the media, although a press release followed them. |
| The PAR Council should open up its sessions beyond NGO representatives that are its members, and invite representatives of CSOs to present their views on particular elements of PAR process that is on the agenda. | No action taken | There has been no change, either in practice or in the Rules of Procedure. |
| The PAR Council must have on its agenda legal acts that deal with crucial segments of the PAR process (e.g. Civil Service Law, Law on State Administration, etc.) and discuss the proposals as well as make sure that they are in line with PAR Strategy goals. | Partially implemented | The Council did discuss bills, such as the amendments to the Law on financing of local self-governments, but also missed discussing other important bills for PAR that were submitted to the Parliament. |
| The PAR Council should deliberate on independently produced reports of NGOs and international organisations dealing with topics from its jurisdiction. | No action taken | In the monitoring period, such materials were not on the agenda of the Council. |
| The PAR Council should avoid the practice of adopting technical conclusions related to documents on its agenda, which are in the remit of the General Secretariat of the Government, but use this instrument to provide meaningful contribution to the PAR process and evidence-based guidance to the Government. | No action taken | There has been no change, either in practice or in the Rules of Procedure. |
| The Par Council must clarify its Rules of Procedure when it comes to voting on conclusions, which should be done publicly by members, with results included in minutes, reports and press releases, that must also include minority opinions and objections to conclusions that were put forward by Council members. The PAR Council must also define its position regarding whether it is its role to formally adopt (endorse) official reports, which is currently ambiguously applied. | No action taken | There has been no change, either in practice or in the Rules of Procedure. |

PAR MONITOR 2019/2020 RECOMMENDATIONS

The process of public consultations in preparation of key PAR strategic documents and their regular or ad hoc amendments should be showcases of best practices on how to organise a comprehensive, inclusive and open participation of public in policy-making.

Transparency of the sessions of the PAR Council should be ensured by inviting media to attend and report on it.

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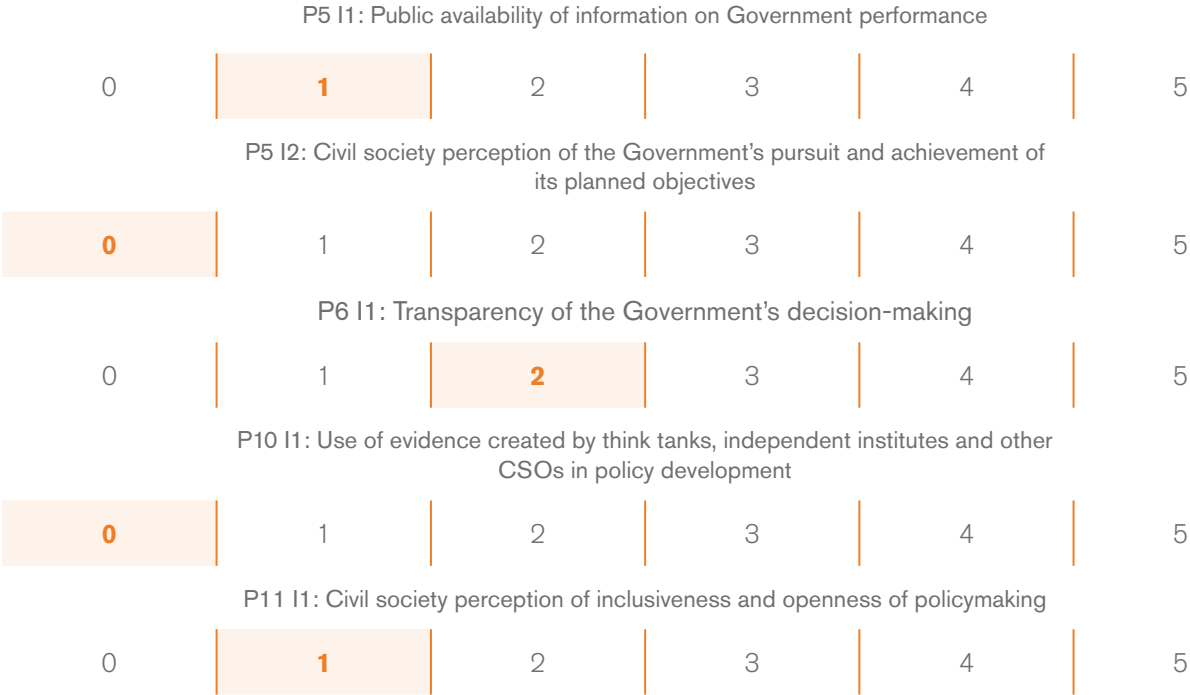
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POLICY DEVELOPMENT AND COORDINATION

III.1 WEBER INDICATORS USED IN POLICY DEVELOPMENT AND COORDINATION AND COUNTRY VALUES FOR MONTENEGRO



III.2 SUMMARY RESULTS: POLICY DEVELOPMENT AND COORDINATION

Government is publishing information about its activities on a regular basis, although there is no practice of reporting on the activities of governmental working bodies. Quarterly reports on the work of Government provide only a dry numerical overview of the level of implementation of planned activities, entirely devoid of any qualitative assessments or information about the impact or performance of the Government.

Publishing of materials from the Government's sessions is well regulated and applied in practice, with an important caveat when it comes to handling of confidential materials on the agenda. In cases when a material that has been classified with a certain degree of confidentiality is discussed at the session, this material is not published on the Government sessions webpage, neither in its redacted form nor does the agenda even mention that it was discussed at all. Emergency sessions and the period of COVID-19 disrupted the established practices and caused lower level of transparency.

When it comes to formal consultation procedures in Montenegro, do not provide conditions for an effective involvement of the public policy-making processes, and that even these procedures, such as they are, have problems in implementation. Public consultations are much rarer in the cases of policy documents, than regarding bills. So called early consultations are much rarer and are done for less than 10% of all policy documents and bills. Reports on consultations are published in almost all cases, but they suffer from low quality. Central consultation portal is not being used by the citizens even though it satisfies formal criteria of quality and interactivity. In the end, almost 60% of the received comments from the public are rejected by the authorities, though the figure is impacted by the poor reporting on conducted consultations.

Survey of CSOs in the region shows that Montenegrin CSOs least expect to be invited by the government institutions to prepare or submit policy papers, studies or impact assessments. In the region, it is the CSOs in Montenegro that claim they receive the least feedback on their proposal while working in working groups. Frequency of referencing of CSOs findings in the adopted government policy and strategic documents is low and shows that ministries do not use the evidence provided by the civil society when developing policy documents in specific policy areas.

III.3 STATE OF PLAY IN POLICY DEVELOPMENT AND COORDINATION

In June 2018, new Decree³³ regulating the area of involvement of non-governmental organisations, but also the wider public in decision – making processes was adopted. Problem in the analysis of the participation of NGO representatives in working bodies is the lack of obligation of state administration to publish decisions on the elections of these representatives, while some of them have proactively published this type of information. The List of nominated candidates is not published by all authorities. Ministries still mostly do not respect the obligation to publish list of the laws and strategies on which the public debate will be conducted.³⁴

The genuine inclusion of civil society organisations (CSOs) in the policy-making process is not sufficiently ensured in practice. European Commission noted that civil society continues to be actively involved in the accession process, including in the different working groups on the negotiation chapters, but still participation in working groups remains a formality; the lack of timely information, inclusion and openness to their recommendations prevents them from influencing the decision-making process. EC also stated that the Government continues to adopt a number of laws affecting citizens' rights without ensuring proper public inclusiveness and participation.³⁵

Most of the ministries have published RIA forms as they were obliged to.³⁶ Quality of the RIA forms comparing to period 2016-2018 has improved, but is still at an unsatisfactory level due to wrong perceptions about the (un) need to create it; insufficient analytical capacities of civil servants to prepare a cost of analysis of regulations; fiscal impact assessments that are not an integral part of the work program of the WG; external expert support and stakeholders are not involved in drafting regulations.³⁷

According to the Methodology on implementation of the Decree from 2018, for the first time data on conducted public consultations and public hearings are being quantitatively processed. For the period 2018-2019, there has been growing trend of involvement of the interested public in policy-making processed, with an increase in comments received as well as of those that are accepted. This can be explained by the improving the quality of received comments, but also by more consistent adherence to procedures. An open issue is the uniform treatment of bodies in the implementation of prescribed standards. Some ministries, when compiling public invitations, omitted basic information related to the duration of the public debate, the manner in which the public debate will be conducted and the manner of submitting comments on the draft law/strategy. In the public consultation processes some challenges are identified, such as the deadline for publishing the reports from public consultations and the mandatory form that should be used when compiling it.³⁸ From April 2020, MPA is also in charge for monitoring the quality of conducting public consultations.

In order to improve online space for public consultations during the policy-making process, the Ministry of Public Administration in 2019 launched E-participation platform on the E-government portal. During the first year, no comments or suggestions are submitted through this platform, due to its restricted functionalities and user options and lack of promotion. Some parts on portal serves purely for information purposes. The use of the portal has not been prescribed as mandatory in the by-law on the implementation of public consultations.³⁹ The latest report on PAR, stated that institutions themselves do not promote this platform enough because they do not direct citizens to the possibility of participating through this portal.

33 Decree on the election of representatives of non-governmental organisations in working bodies of state administration bodies and the implementation of public debate in the preparation of laws and strategies

34 Center for Development of NGO's, Report on civil society participation in decision-making processes at the national level in 2019.

35 European Commission Report for Montenegro for 2020, October 2020, available at:
https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/montenegro_report_2020.pdf

36 Center for Development of NGO's, Report on civil society participation in decision-making processes at the national level in 2019.

37 PAR Implementation Report for 2020, Ministry of Public Administration, Digital Society and Media, 2021.

38 Ministry of Public Administration, Report on the implementation of the Decree on the election of representatives of non-governmental organisations in working bodies of state administration bodies and the implementation of public debate in the preparation of laws and strategies in 2019.

39 Institute Alternative's Public Administration Reform Monitoring Report, January 2020, available at:
http://media.institut-alternativa.org/2020/04/par_monitoring-izvje%C5%A1taj_eng_ma.pdf

The latest EC report states that the Medium-term fiscal plan is yet to be linked to policy planning. In February 2018, first Medium-Term Work Programme for 2018–20 was adopted. In October same year, SGG developed Methodology on mid-term planning of ministries. As a pilot project, this methodology was applied for three ministries⁴⁰ for the period 2019-2021.⁴¹ In 2020, with the establishment of the Information System for Planning and Reporting, mid-term work planning is introduced in other ministries as well. This IS is accessible only for the officials in SGG and ministries.⁴² The methodology for developing these programs contains a serious omission because instead of creating a three year work programme, it is planned to create a programme for 1 + 2 years. The methodology precisely elaborates the planning of the work of the ministries in the first year, unlike in the second and third year. ⁴³ Form in which the annual reporting is envisaged leaves room to continue current practice according to which the institutions list only what has been done, without presenting the activities that have not been fully implemented and the reason for that.⁴⁴

In practice so far, only a certain number of implementation report of strategies/programmes were planned in the annual GAWP. With aim to stimulate public interest in monitoring the implementation and results of policy, by the end of the first quarter of 2021, new site “javne politike” (public policies) will be presented to the public.⁴⁵

Although the agendas of the sessions and the material considered by the Government are published regularly, the items marked with the degree of secrecy have been removed from these documents. In accordance with the law, state bodies have the right to classify act proposed by the Government, however, there is no justification for the names of these acts to be secret and thus removed from government materials. The Government publishes announcements with key information from Governments session, however, the minutes from the sessions are not published proactively. Social networks Facebook and Twitter have become the basic mechanism for informing the public about the activities of the Government.⁴⁶

40 Ministry of Agriculture and Sustainable Development, Ministry of Economy and Ministry of Sustainable Development and Tourism.

41 PAR Implementation Report for 2019, Ministry of Public Administration, 2020, available at:
<https://mju.gov.me/biblioteka/izvjestaji?pagerIndex=1>

42 PAR Implementation Report for 2020, Ministry of Public Administration, Digital Society and Media, 2021.

43 Center for Democratic Transition (CDT), Key observations on the implementation of public administration reform in 2019, available at:
<https://www.cdtmn.org/analize/kljucna-zapazanja-o-sprovođenju-reforme-javne-uprave-u-2019/>

44 Center for Democratic Transition (CDT), Short-term planning of long-term liabilities, 2019, available at:
<https://www.cdtmn.org/analize/kratkoročno-planiranje-srednjoročnih-obaveza-2019/>

45 PAR Implementation Report for 2020, Ministry of Public Administration, Digital Society and Media, 2021.

46 Center for Democratic Transition (CDT), Openness of the executive power in Montenegro and the region, August 2020,
<https://www.cdtmn.org/wp-content/uploads/2020/12/Otvorenost-izvrsne-vlasti-u-regionu-i-Crnoj-Gori.pdf>

III.4 WHAT DOES WEBER MONITOR AND HOW?

In the Policy Development and Coordination area, WeBER monitoring is performed based on four SIGMA Principles:

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

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

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

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

In this edition of the PAR Monitor, five WeBER indicators are used for analysis in the Policy Development and Coordination area. As explained in the introductory chapter, unlike in the baseline PAR Monitor 2017/2018, SIGMA Principle 12 was not included in this monitoring cycle, and consequently an indicator on the accessibility of legislation was not measured.⁴⁷

The first indicator measures the extent of openness and availability of information about governments' performance to the public, through analysis of the most comprehensive websites through which governments communicate their activities and publishes reports. Written information published by governments relates to press releases and the online publishing of annual (or semi-annual) reports. The WeBER monitoring covers a period of two annual reporting cycles, except for press releases, which are assessed for a one-year period (due to the frequency of their publishing). Other aspects of government performance information analysed include understandability of published materials, usage of quantitative and qualitative information, presence of assessments/descriptions of concrete results, availability of gender-segregated and open-format data, and the online availability of reports on key whole-of-government planning documents.

The second indicator measures how CSOs perceives government planning, monitoring, and reporting on its work and objectives. To explore perceptions, a survey of CSOs in the WB was implemented in the period between the second half of June and the beginning of August 2020 using an online surveying platform.⁴⁸ A uniform questionnaire with 28 questions was used throughout the region, ensuring an even approach in survey implementation. It was disseminated in local languages through the existing networks and platforms of civil society organisations with large contact databases, and through centralised points of contact such as governmental offices in charge of cooperation with civil society. To ensure that the survey targeted as many organisations as possible in terms of types of organisations, geographical distribution, and activity areas, and hence be representative as much as possible, additional boosting was done where needed to increase overall responses. A focus group with CSOs served to complement survey findings with qualitative information.

The third indicator measures the transparency of decision-making by the government (in terms of the Council of Ministers), combining survey data on the perceptions of civil society with analysis of relevant government websites. Besides looking for published information on government decisions, the website analysis considers the completeness, citizen-friendliness, timeliness, and consistency of information. Monitoring was done for each government session in a six-month period - the last three months in the calendar year preceding the monitoring (2019), and first three months in the monitoring year (2020), except for the timeliness of publication, which is

47 SIGMA Principle 12: Legislation is consistent in structure, style, and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available. WeBER indicator used for monitoring this principle in 2017/2018: Perceptions of the availability and accessibility of legislation and related explanatory materials by civil society.

48 The survey of CSOs was administered through an anonymous, online questionnaire. The data collection method was CASI (computer-assisted self-interviewing).

compared with all government sessions in the period of three months from the start of monitoring (roughly from the beginning of March until beginning of June 2020).

The fourth indicator measures whether government institutions invite civil society to prepare evidence-based policy documents, and whether evidence produced by CSOs is considered and used in policy development processes. Again, this measurement combines expert analysis of official documents and survey of civil society perceptions. Regarding document analysis, the frequency of references to CSOs' evidence-based findings is analysed for official policy and strategic documents, policy papers, and ex-ante and ex-post policy analyses and impact assessments in a sample of three policy areas.

Finally, the fifth indicator, focusing on the quality of involvement of the public in policymaking through public consultations, was modified in this monitoring cycle. It includes not only perceptions of CSOs collected by online survey, but also additional qualitative data gathered through the analysis of a sample of public consultations as well as assessments of online governmental portals used for public consultations. More precisely, in this PAR Monitor this indicator was enhanced with the addition of qualitative document analysis of the scope and impact of public consultations on policy documents and legislation adopted in the second half of 2019, the availability and quality of reporting on public consultations, functionalities of the public consultation portals, and proactiveness of information provision by the responsible institutions.

III.5 WEBER MONITORING RESULTS

PRINCIPLE 5: REGULAR MONITORING OF THE GOVERNMENT'S PERFORMANCE ENABLES PUBLIC SCRUTINY AND SUPPORTS THE GOVERNMENT IN ACHIEVING ITS OBJECTIVES

WeBER indicator PDC_P5_I1: Public availability of information on Government performance

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| The government regularly publishes written information about its activities | 4/4 | 2/4 |
| The information issued by the government on its activities is written in an understandable way | 0/2 | 0/2 |
| The information issued by the Government is sufficiently detailed, including both quantitative data and qualitative information and assessments | 2/4 | 2/4 |
| The information issued by the Government includes assessments of the achievement of concrete results | 0/4 | 0/4 |
| The information issued by the Government about its activities and results is available in open data format(s) | 0/2 | 0/2 |
| The information issued by the Government about its activities and results contains gender segregated data | 0/2 | 0/2 |
| Share of reports on Government strategies and plans which are available online | 1/2 | 1/2 |
| Total score | 7/20 | 5/20 |
| Indicator value (scale 0-5) | 1 | 1 |

The first indicator in this chapter measures the extent of openness and availability of information about the government's performance to the public. For all elements under this indicator, expert analysis of relevant government websites and published reports was conducted. The websites to be analysed include: Government and General Secretariat of the Government websites.

The way that government publishes written information about its activities is mostly well assessed. Government published press releases regularly – daily, often with several items per day. Ministries are publishing press releases about their activities, while the website of the Government includes the activities of the Prime Minister and his deputies, as well as selected news from other ministries and agencies. After each Government's weekly session, a press release or more articles (depending on the agenda) are published. Information about the activities of the Prime Minister and Vice Prime Ministers is published daily. There is, however, no practice of publishing information on the sessions or overall activities of the four government's working bodies.⁴⁹

Press releases differ in language and style - generally, the review showed that the press releases are understandable, although no special effort to make them more citizen-friendly can be noted.

According to the Government's Rules of Procedure, the General Secretariat prepares quarterly reports on the implementation of the Government's Annual Work Plan.⁵⁰ The reports are prepared and published quarterly, with each containing not only the information of the respective quarter, with the fourth and final quarterly report also having an overview of the entire year until that point in time. Apart from quarterly reports on the implementation of the Government's Work Programme, there are also annual reports, which are adopted in a timely manner (early in the first quarter of the current year). It should be noted that the 2018 report however consists of only two pages and the whole detailed section of tables that is usually its part is missing.⁵¹

The reports are written in a bureaucratic and formalistic style. Although they do contain a part that summarises statistical data in the beginning, as well as a graphical representation of the ratio of implemented obligations, on the whole, the information is provided using exclusively and technical bureaucratic terminology. Additionally, reports do not contain any information about the impact or performance of the Government - they stay on the output level and only outline whether an activity has been conducted or not (if a bill, information or strategy has been adopted or not) and do not deal with the outcome or impact dimension at all.

When it comes to reporting on the practice of reporting on implementation of Government strategies and plans, practice is uneven. Sample of six key strategic and planning documents for the whole of Government⁵² included Programme of Economic Reforms (PER), Government's Annual Working Plan (GAWP), Medium-term Working Plan of the Government 2018-2020, Programme of Accession of Montenegro to the EU (PPCG), Fiscal strategy 2017-2020. In the monitoring period, only the Fiscal strategy and National Strategy of Sustainable Development until 2030 did not have regular reporting.

49 There are four working bodies of the Government: Commission for political system, internal and foreign policy; Commission for economic policy and financial system, Commission for personnel and administrative issues; Commission for Allocation of the Portion of the Budgetary Reserve. Their competencies are numerous and significant, ranging from de facto vetting in the recruitment procedures to discretionary allocation of funds to individuals and legal entities.

50 Article 31 of the Rules of Procedure of the Government, Official Gazette No. 003/12, 031/15, 048/17.

51 Government annual work reports on 2018 and 2019:

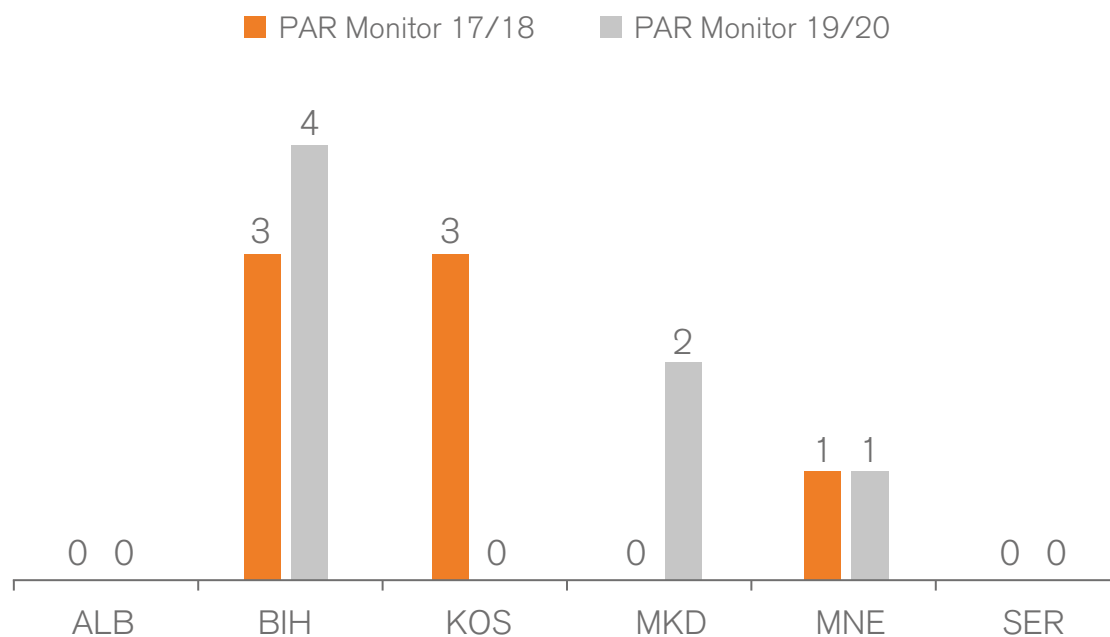
Annual report for 2019, adopted on 06 February 2020, available at: http://www.gov.me/sjednice_vlade_2016/156, point 3 on the agenda

Annual report for 2018 adopted on January 17, 2019 available at: http://www.gov.me/sjednice_vlade_2016/105, point 1 on the agenda

52 Reports on sectoral strategic documents and plans are not subject of analysis under this indicator

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PDC_P5_I1: Public availability of information on Government performance



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

WeBER indicator PDC_P5_I2: Civil society perception of the Government's pursuit and achievement of its planned objectives

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| CSOs consider government's formal planning documents as relevant for the actual developments in the individual policy areas | 0/2 | 0/2 |
| CSOs consider that the Government regularly reports to the public on progress against the set objectives | 0/4 | 0/4 |
| CSOs consider that official strategies determine governments' or ministries' action in specific policy areas | 0/2 | 0/2 |
| CSOs consider that the ministries regularly publish monitoring reports on their sectoral strategies | 0/4 | 0/4 |
| CSOs consider that the EU accession priorities are adequately integrated into the government's planning documents | 0/2 | 0/2 |
| CSOs consider that the Government's reports incorporate adequate updates on the progress against the set EU accession priorities | 0/2 | 0/2 |
| Total score | 0/16 | 0/16 |
| Indicator value (scale 0-5)⁵³ | 0 | 0 |

53 Conversion of points: 0-3 points = 0; 4-5 points = 1; 6-7 points = 2; 8-10 points = 3; 11-13 points = 4; 14-16 points = 5.

The indicator measures to what extent the civil society perceives through its work and experience that the government actively plans, monitors and reports on its work and through those processes achieves the objectives that it has promised to the public. Measurement of all elements of this indicator is based on a widely disseminated online survey of CSOs to collect their perception by choosing one of the six options (strongly disagree, disagree, neither agree nor disagree, agree and strongly agree).

Overall results show that CSOs in Montenegro have a very critical view of how the Government agenda is reflected in reality and how the process of reporting on both the agenda and the individual sectoral strategies is taking place.

Only 7.5% of the CSOs In Montenegro think that there is a direct connection between Government’s agenda (work plan) and actual developments in specific policy areas, which is the lowest percentage in the region. In the same time, half of respondents (50%) think that there is no connection between the agenda and the actual activities.

Overall perception of “life happening outside of plans” is confirmed by only 15% of CSOs who think that strategies determine the governments’ or ministries action in certain areas. Close to half (47,5%) claim the opposite, which is higher than the regional average for this question (36,9%).

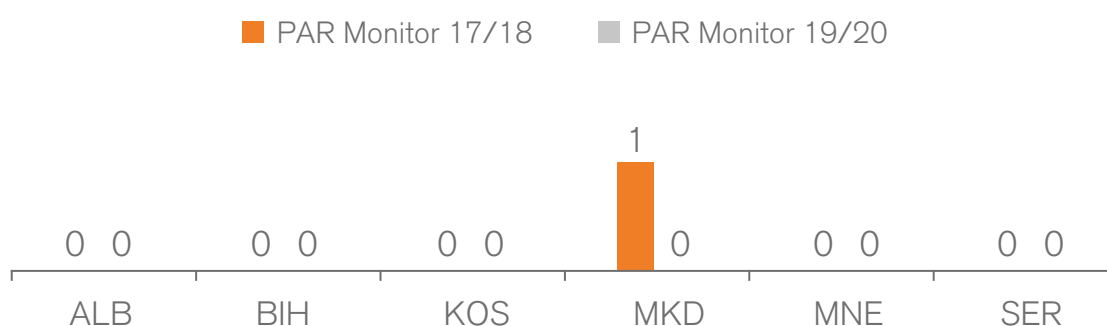
Asked whether they think that the Government regularly reports to the public on the progress in the achievement of the objectives set in its work-plan, around one fifth (22.5%) of the CSOs agreed, while close to half disagreed (45%). Even lower percentage of CSOs (15%) think that Ministries regularly publish monitoring reports on their sectoral strategies, with 60% claiming this is not the case - which is the regional record (regional average being 43%).

Only a quarter of CSOs (25%) consider that the EU accession priorities are adequately integrated into the government’s planning documents, while even fewer think that government’s reports incorporate adequate updates on the progress against the set of EU accession priorities.

No CSO chose to answer any of the six questions from this section with a “strongly agree” option, which is a unique case in the region.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator P5 I2: Civil society perception of the Government’s pursuit and achievement of its planned objectives



Regional PAR Monitor Report with results for all WB countries is available at: www.par-monitor.org

PRINCIPLE 6: GOVERNMENT DECISIONS ARE PREPARED IN A TRANSPARENT MANNER AND BASED ON THE ADMINISTRATIONS' PROFESSIONAL JUDGEMENT; LEGAL CONFORMITY OF THE DECISIONS IS ENSURED

WeBER indicator for PDC_P6_I1: Transparency of the Government's decision-making

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| CSOs consider government decision-making to be generally transparent | 0/2 | 0/2 |
| CSOs consider the exceptions to the rules of publishing Government's decisions to be appropriate | 0/2 | 0/2 |
| The Government makes publicly available the documents from its sessions | 2/4 | 0/4 |
| The Government communicates its decisions in a citizen-friendly manner | 2/4 | 2/4 |
| The Government publishes adopted documents in a timely manner | 2/4 | 2/4 |
| Total score | 6/16 | 4/16 |
| Indicator value (scale 0-5) | 1 | 1 |

In 2012, the Government adopted the Decision that regulates how the materials from its sessions are published⁵⁴. In accordance with the Decision, there is a special section of the website devoted to sessions of the Government, visible in the main navigation of the governmental website.⁵⁵ In this section, each session has its own link and webpage that contains the list of all the points on the agenda. At each session's webpage, the name of the point of the agenda is published, the document is linked, and the conclusions of the Government related to it are published (if there are any, as some documents are just „verified“ or reviewed without discussions, the Government is just being informed and no conclusions are adopted). Minutes of the Government sessions are not published as a separate document, as they are not identified as one of the documents that needs to be published by the Decision.

Materials are published in a timely manner. Decision on publishing the materials from the Government's sessions prescribes the deadline of seven days from the adopting of the conclusions from the Government (at the day of the session) for the materials to be published. In practice, all the materials are published at the same day of the session, or the day after at the latest. It is only for certain cases when there are significant technical corrections to be added that a document is published later than this. In certain, rare cases, if there were significant changes to the document as a result of the Government's discussion, the material is published with delay, after the changes are made - these sometimes take several days.⁵⁶ The Government occasionally publishes the draft agenda ahead of the session, although this practice is often disregarded.

The Decision on publishing the materials from the Government's sessions prescribes the deadline of seven days from the adopting of the conclusions from the Government (at the day of the session). However, in practice, all the materials are published at the day of the session, or the day after at the latest. It is only for certain cases when there are significant technical corrections to be added that a document is published later than this.

Since the start of the COVID19 crisis and the more severe measures of lockdown (15 March 2020), the Government did not hold regular sessions. Instead, it has been adopting decisions without formally holding

54 Decision on publishing the materials from the sessions of the Government of Montenegro, Official gazette, 80/08

55 Webpage of the Government's sessions: http://www.gov.me/sjednice_vlade_2016

56 For example, the Staffing Plan for 2018 was published a week after it was adopted (at the 73rd session of the Government, held on 19 April 2018), due to numerous conclusions that were put forward by the Government, whose implementation required delays in publishing. Plan and conclusions available at the webpage of the 73rd session: http://www.gov.me/sjednice_vlade_2016/73 (point 5 on the agenda)

sessions, i.e. without the proper transparency procedure when it comes to holding sessions. Documents adopted or verified at these sessions are not available in the same way as in the previously, regularly held sessions. Decisions regarding the Covid19 situation are presented elsewhere (specialised portal and dedicated section of the gov.me portal), while documents not related to COVID19 were not available in the same fashion as before. Press releases are issued to notify the public that decisions have been taken, without holding of the sessions, and without the links to actual documents.⁵⁷

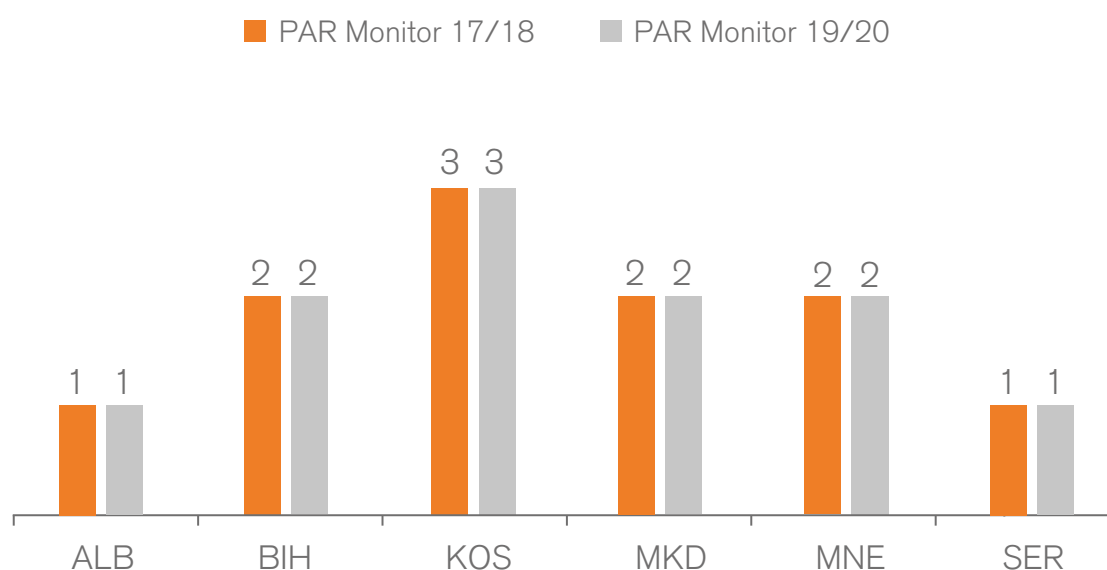
After a month and a half of adopting documents without holding sessions and without publishing them in the usual way, except by giving general information press releases, all the adopted information was published in the last week of April.⁵⁸

For the period of one month (covering the duration of most severe lockdown measured), it can be concluded that the documents were not published timely. Government's caveat that sessions were not actually held in this period, does not hold up since regardless of their actual form, documents were reviewed and adopted.

Important caveat in the analysis of government decision-making transparency is tied to confidential materials. In cases when a material that has been classified with a certain degree of confidentiality is discussed at the session, this material is not published on the Government sessions webpage, neither in its redacted form nor does the agenda even mentioned that it was discussed at all. In that way, not only is the document unavailable, but the public does not know that it was even discussed. Because the legal provision defining the confidentiality of data are broad, these exceptions to publishing can be diverse, and they range from an individual contract, decision on economic citizenship, or a reallocation of funds between budgetary units.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PDC_P6_I1: Transparency of the Government's decision-making



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

57 See: <http://www.gov.me/vijesti/223765/Vlada-donijela-vise-odluka-bez-odrzavanja-sjednice-Sportski-objekti-u-Podgorici-Golubovci-ma-Beranama-i-Baru-odredeni-za-privreme.html>
<http://www.gov.me/vijesti/223534/Saopstenje-o-odlukama-Vlade-donijetim-bez-odrzavanja-sjednice.html>
<http://www.gov.me/vijesti/223682/Premijer-Dusko-Markovic-predstavio-novi-Vladin-paket-mjera-ekonomskog-oporavka-od-pandemije-korona-virusa-Put-oporavka-nece-bit.html>

58 Example: Documents adopted without holding a session on 26 March: http://www.gov.me/sjednice_vlade_2016/163

PRINCIPLE 10: THE POLICY-MAKING AND LEGAL-DRAFTING PROCESS IS EVIDENCE-BASED, AND IMPACT ASSESSMENT IS CONSISTENTLY USED ACROSS MINISTRIES

WeBER indicator PDC_P10_I1: Use of evidence created by think tanks, independent institutes and other CSOs in policy development

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| Frequency of referencing of evidence-based findings produced by CSOs in the adopted government policy documents | 2/4 | 0/4 |
| Frequency of referencing of evidence-based findings produced by CSOs in policy papers and ex ante impact assessments | 0/4 | 0/4 |
| Share of evidence-based findings produced by wide range of CSOs, such as think tanks, independent institutes, locally-based organisations, referenced in ex post policy analyses and assessments of government institutions | 0/2 | 0/2 |
| Relevant ministries or other government institutions invite or commission wide range of CSOs, such as think tanks, independent institutes, locally-based organisations, to prepare policy studies, papers or impact assessments for specific policy problems or proposals | 0/2 | 0/2 |
| Representatives of relevant ministries participate in policy dialogue (discussions, round tables, closed door meetings, etc.) pertaining to specific policy research products | 1/2 | 1/2 |
| Representatives of wide range of CSOs, such as think tanks, independent institutes, locally-based organisations are invited to participate in working groups/ task forces for drafting policy or legislative proposals when they have specific proposals and recommendations based on evidence | 2/4 | 0/4 |
| Relevant ministries in general provide feedback on the evidence-based proposals and recommendations of the wide range of CSOs, such as think tanks, independent institutes, locally-based organisations which have been accepted or rejected, justifying either action | 0/2 | 0/2 |
| Ministries accept CSOs' policy proposals in the work of working groups for developing policies and legislation | 0/4 | 0/4 |
| Total score | 5/24 | 1/24 |
| Indicator value (scale 0-5) | 0 | 0 |

This indicator focuses on the extent to which government institutions invite CSOs to prepare evidence-based policy documents and the extent to which evidence produced by them (the data collected and research) is consulted and used in policy development process. Measurement combined expert analysis of relevant government documents and an online perception survey of CSOs.

Frequency of referencing of CSOs findings in the adopted government policy and strategic documents⁵⁹ is low and shows that ministries do not use the evidence provided by the civil society when developing policy documents in specific policy areas. Three policy areas chosen for the sample, as those in which the largest number of CSOs has been identified as producing research, monitoring and policy reports (anti-corruption, anti-discrimination and environment policy). Researchers analysed a total of 18 government policy documents currently being implemented within three policy areas: anti-corruption, environment and anti-discrimination policy. Out of these analysed documents, CSO findings were clearly referenced in only 6, mostly in the area of anti-discrimination.

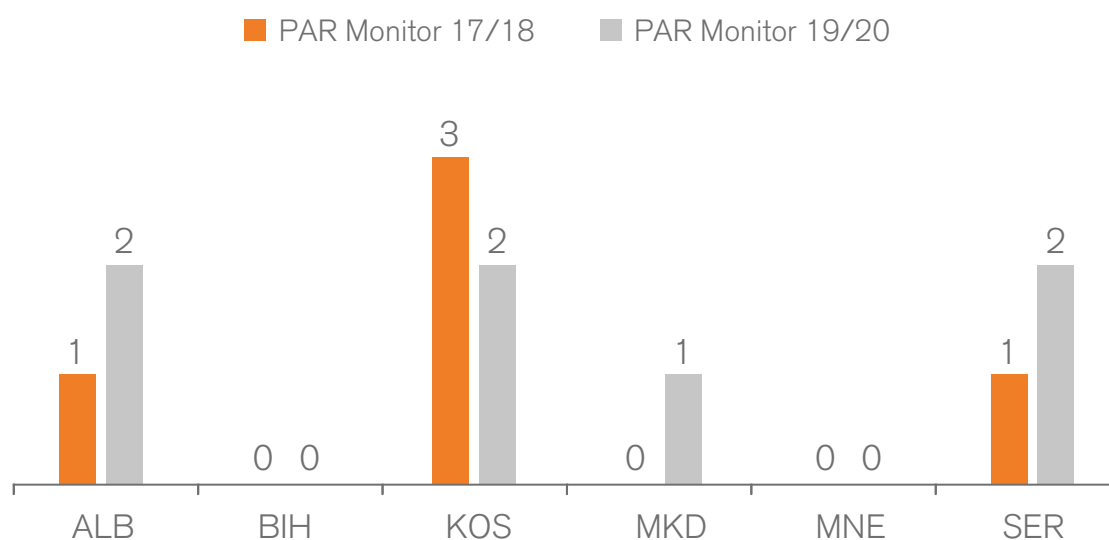
59 Adopted government documents include strategies, plans, programmes, or other types of documents that are formally adopted, and which can reference information directly.

Situation is worse when it comes to policy papers, ex ante impact assessments or ex post policy analyses and assessments of government institutions, where none of the three documents found has any reference to the work of CSOs.

Perception of Montenegrin CSOs on the use of evidence, created by think tanks, independent institutes and other CSOs, in policy development, signals that civil society is still not recognised as valuable source of evidence among policy making institutions at the central level. Survey of CSOs shows that Montenegrin CSOs least expect to be invited by the government institutions to prepare or submit policy papers, studies or impact assessments. Only a fifth of surveyed CSOs say they are invited, while 54% disagree with the statement, by far the highest figure in the region for this question (regional average being 35%). In line with this, barely a quarter of CSOs (24.3%) of respondent CSOs state that relevant ministries invite them to participate in working groups/ task forces for drafting policy or legislative proposals, when they have specific evidence-based proposals and recommendations. Only one fifth (21.6%) of respondent CSOs that produce inputs for the decision-making processes at the central level state that relevant ministries consider their policy proposals, in the work of working groups for developing policies and legislation.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PDC_P10_I1: Use of evidence created by think tanks, independent institutes and other CSOs in policy development



PRINCIPLE 11: POLICIES AND LEGISLATION ARE DESIGNED IN AN INCLUSIVE MANNER THAT ENABLES THE ACTIVE PARTICIPATION OF SOCIETY

WeBER indicator PDC_P11_I1: Inclusiveness and openness of policymaking*

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| Scope of public consultations on policy documents in central administration | 0/4 | n/a |
| Scope of public consultations on legislation in central administration | 2/4 | n/a |
| Availability of reporting on public consultations on policy documents by central administration | 0/4 | n/a |
| Availability of reporting on public consultations on legislation by central administration | 4/4 | n/a |
| Basic functionality of a national public consultation portal | 0/4 | n/a |
| Advanced functionality of a national public consultation portal | 0/2 | n/a |
| Proactiveness of informing on public consultations | 4/4 | n/a |
| Embeddedness of early public consultations in practice | 0/2 | n/a |
| Quality of reporting on public consultations | 1/2 | n/a |
| Impact of public consultation results on policy making | 1/2 | n/a |
| CSOs consider formal consultation procedures create preconditions for effective inclusion of the public in the policy-making process | 0/2 | 0/4 |
| CSOs consider formal consultation procedures are applied consistently | 0/2 | 0/4 |
| CSOs consider that they are consulted at the early phases of the policy process | 0/2 | 0/4 |
| CSOs consider consultees are timely provided with information on the content of legislative or policy proposals | 0/2 | 0/2 |
| CSOs consider consultees are provided with adequate information on the content of legislative or policy proposals | 0/2 | 0/2 |
| CSOs consider sponsoring ministries take actions to ensure that diversity of interests is represented in the consultation processes | 0/2 | 0/2 |
| CSOs consider ministries (sponsors of policy and legislative proposals) provide written feedback on consultees' inputs/comments | 0/2 | 0/2 |
| CSOs consider ministries accept consultees' inputs/comments | 0/2 | 0/4 |
| CSOs consider ministries hold constructive discussions on how the consultees' views have shaped and influenced policy and final decision of government | 0/2 | 0/4 |
| Total score | 12/50 | 0/30 |
| Indicator value (scale 0 – 5)⁶⁰ | 1 | 0 |

*Note: values for the two monitoring cycles are not directly comparable due to the change in the monitoring methodology.

60 Conversion of points: 0-9 points = 0; 10-17 points = 1; 18-25 points = 2; 26-33 points = 3; 34-41 points = 4; 42-50 points = 5.

When it comes to the scope of public consultations on policy documents in central administration, out of the 7 strategies that were adopted in the monitoring period, three had consultations held.⁶¹ In the reporting period (second half of 2019), in total, the Government has adopted 63 bills. Out of that number, 9 are not included in calculation for the reasons based in legal exemptions.⁶² Out of the remaining 54 bills, 41 did have a public consultation. In total 75,9% of bills did have a public consultation conducted in the process of their preparation. Out of these 41 bills that had a public consultation process organised, reports have been published for 37, or 90,24%. The percentage was much lower when it comes to strategies, where the report was published for a single Strategy.⁶³

Central public consultation portal (hosted on euprava.me) was redesigned and new version published in 2019, while the old data is not present (incorporated or visible) anymore. Consultations can be filtered by: status (closed or opened), by institution (that is sponsoring the act), title, content (search by any word), by the date of publishing and date of expiry (closing down of the consultation process). Out of the minimum categories listed, searchability is not possible by using policy areas and type of document (strategy, law, bylaw etc.)

Portal is often missing key documentation on consultations. Out of 77 entries (public consultations) on the portal, only 36 entail a public consultation report. Out of 67 entries in the early public consultation section, just 16 entries also entail public consultation reports. On a randomly selected sample of cases covering about 20% of all entries (30 entries inspected - out of 77 public consultation entries and 67 early consultations entries in total) it is concluded that the documentation is not comprehensive - it only contains the text of the law/strategy as well as the programme of consultations, but no RIA sheets or other documentation (not counting the public consultation reports).

Portal has the option of notification if a public consultation is opened by a certain institution or in a certain sector. Upon publishing of the report on public consultation, those users that have submitted inputs receive a notification that the report has been uploaded. They also receive a notification whenever an entry is added or status changed.

Comments can be submitted by either uploading a file, unrelated to any of the specific parts (articles), or by manually typing out the comments in the form provided on the portal, indicating the article that the comment addresses but not directly in the text.

Apart from the public consultation report, which contains (usually) all the contributions received in the course of the public consultation process, there is no possibility to see the contributions of others while the consultations are ongoing.

61 These were:

Proposal of the Judicial Reform Strategy 2019-2022 with the Proposed Action Plan for the Implementation of the Judicial Reform Strategy 2019-2022 (for the period 2019-2020), link to consultations: <http://eusluge.euprava.me/eParticipacija/Item/?Id=49>

Proposed strategy for the development of vocational education in Montenegro (2020-2024) with the Proposed Action Plan for 2020-2021. year, link: <http://eusluge.euprava.me/eParticipacija/Item/?Id=165>

Proposal of the Integrated Border Management Strategy 2020 - 2024 with the Proposal of the Framework Action Plan for the implementation of the Integrated Border Management Strategy for the period 2020-2024. year and the Proposed Action Plan for 2020, link: <http://eusluge.euprava.me/eParticipacija/Item/?Id=120>

62 According to Montenegrin Law on State Administration (Article 97), public consultation is not necessary when the law or a strategy regulates issues in the area of defence and security as well as annual budget. These grounds were the following: 5 are ratification bills, 2 are budget laws, 2 are laws from the area of security and defence (documents numbered from 55 to 63).

63 Only for public consultation on the Proposal of the Integrated Border Management Strategy 2020 - 2024, the consultation report has been published, available at: <http://eusluge.euprava.me/eParticipacija/GetFile.aspx?Id=161>

When it comes to embeddedness of early public consultations in practice, out of 61 policy documents and legal proposals, only for 6 there is a proof of early consultations taking place, amounting to 9,8% of the total number.⁶⁴

When it comes to the quality of reporting on public consultations, the report is considered to be of good quality if the following conditions are met:

- if it contains all the comments and proposals submitted during public consultation process listed individually, without aggregating the inputs.
- if it contains clear information on the feedback to each individual proposal - i.e. if the proposal is accepted, rejected or partially accepted.⁶⁵
- if the report contains rationale for the rejection, or partial approval and rejection, of each individual proposal submitted in the course of consultations.

Out of 38 reports that were considered in total, 6 had no comments received and were disregarded from the calculation. Out of remaining 32 reports, 16 had all 3 criteria satisfied, 6 had 2 criteria satisfied, 5 had 1 criterion satisfied and 5 had 0 criteria satisfied. 6 reports in total were assessed to be of low quality, due to aggregating a large number of comments and not presenting the feedback clearly.

For all the public consultations on policy documents and bills in the monitoring period, it is determined that more than half of the comments received were rejected. Out of the total number of comments in eligible reports (2003), a total of 1193 have been rejected, or 59,6%. High rejection indicates low degree of impact and potential to penetrate policy making.

Some public consultation reports were left out from examination due to lack of quality that was to such an extent that it did not allow analysis.

Perception of CSOs' about the public consultation process was measured through an online survey. Results in this area are overwhelmed with values for Montenegro which are the lowest in the region. The survey showed that CSOs in Montenegro have consistently the most critical view of the way the public consultation procedures are set up and implemented.

64 These are the following:

Public Procurement Bill:

<http://www.mif.gov.me/vijesti/202312/Javne-konsultacije-povodom-teksta-Predloga-zakona-o-javnim-nabavkama.html>

Bill of Alternative Dispute Resolution:

http://www.mpa.gov.me/rubrike/Javna_rasprava/192663/Javni-poziv-organima-organizacijama-udruzenjim-a-i-pojedincima-da-se-ukljuce-u-postupak-pripreme.html

Media Bill:

<http://www.mku.gov.me/rubrike/SektorME/178930/Javni-poziv-za-ucesce-u-konsultacijama-za-izradu-Nacrta-zakona-o-medijima.html>

Bill of Amendments to the Law on Courts:

http://www.mpa.gov.me/rubrike/Javna_rasprava/180356/Javni-poziv-Predlog-zakona-o-izmjenama-i-dopunama-Zakona-o-sudovima.html

Bill of the Law on Amendments to the Law on the State Attorney's Office:

http://www.mpa.gov.me/rubrike/Javna_rasprava/189505/Javni-poziv-Predlog-zakona-o-izmjenama-i-dopunama-Zakona-o-Drzavnom-tuzilastvu.html

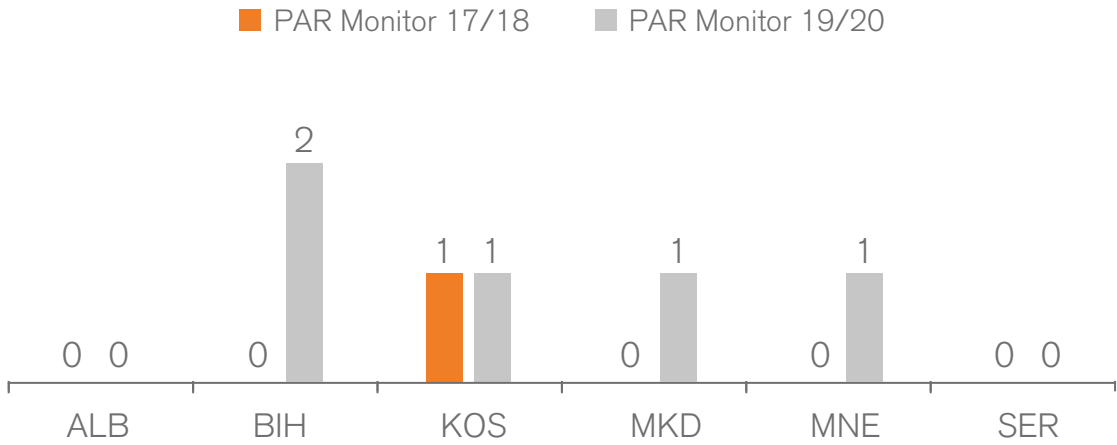
Bill of the Law on Amendments to the Law on Transport of Dangerous Goods:

<http://www.mup.gov.me/vijesti/196081/JAVNI-POZIV.html>

65 For partially accepted comments, clear information needs to be given on which part is accepted and which is not. Ambiguous answers such as "we will consider this comment", or "comment is taken into consideration" or similar, is not accepted as clear information on feedback

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PDC_P11_I1: Inclusiveness and openness of policymaking *



*It should be noted that the values for the two monitoring cycles are not directly comparable due to the change in the monitoring methodology.

III.6 RECOMMENDATIONS FOR POLICY DEVELOPMENT AND COORDINATION

| Recommendation | Status | Comment |
|---|-----------------|---|
| The work of Government's working bodies, the four commissions, must be made transparent and documentation on their work regularly published, instead of declared confidential as it the case currently. | No action taken | No progress in the transparency of these commissions was registered, no information about their work is proactively published and access via FOI is limited. |
| Planning and reporting on the work of the Government should contain qualitative assessments, performance targets and data on indicator achievement, rather than being a dry overview of normative activity. | Initiated | New GAWP does have some elements related to the outcome indicators but no reporting has been done yet. |
| Transparency of Government's decision-making needs to be enhanced so that the public has a comprehensive insight into which materials have been discussed at the Government sessions, even in the case that these materials have been declared confidential, their titles must be on the agenda, in order for the document contents to be confidential and not the fact that it was deliberated upon. | No action taken | No progress whatsoever in this regard has been registered, in either legislation or practice. |
| The e-Government portal for public consultations should be the central point for all public consultations that are ongoing, easy to search and able to inform users of new consultations, with advanced functionalities of interaction that provide opportunity for users to submit comments and the authorities to provide feedback online. | Initiated | The portal has been redesigned in this component since the last round of monitoring, but in such a way that it is seldom used (for over two years of functioning only one comment was left via the e-consultation platform) |
| The Decree on the selection of NGO representatives to working bodies of the state administration and conducting public consultations in preparation of laws and strategies (Decree) should be amended so as to include the obligation of the authorities to prepare draft document (outline the key directions of the act) in the phase of early consultations (consulting of interested public). | No action taken | The Decree was not changed since the last round of monitoring and the situation remains the same. |
| State authorities should be obligated by the Decree to provide feedback to each individual comment that was received, as opposed to general responses to bulk comments or selective approach in which authorities choose the comments to which they will provide response, currently encouraged by the feedback form prescribed by the Annex 5 of the Decree. | No action taken | The research shows that the practice in providing feedback is still varied and answering individual comments and inputs remains sporadic. |
| Decree should amended so as to prescribe the obligation of the authorities to produce reports from early consultations (consulting of interested public) that are not solely a compilation of contributions but also include feedback to the comments that were received. | No action taken | The Decree was not changed since the last round of monitoring and the situation remains the same. |

| | | |
|--|-----------------|---|
| During the phase of public consultations and the mandate of the working group, public authorities must be fully transparent regarding consultations, opinions and materials received from international actors, most notably the EU, which must be made available to all participants. | No action taken | No progress whatsoever in this regard has been registered, in either legislation or practice. |
| Work of the working groups tasked with developing laws and strategies should be made more transparent by orderly publishing of materials from their sessions (meeting minutes, draft versions, conclusions). | No action taken | No progress whatsoever in this regard has been registered, in either legislation or practice. |
| The procedure and responsibility for preparation of consolidated texts of legislation must be precisely defined by the law, while their availability needs to be free of charge and provided by the Official Gazette of Montenegro. | No action taken | No progress whatsoever in this regard has been registered, in either legislation or practice. |

The work of Government's working bodies, the four commissions, must be made transparent and documentation on their work regularly published, instead of declared confidential as it the case currently.

Planning and reporting on the work of the Government should contain qualitative assessments, performance targets and data on indicator achievement, rather than being a dry overview of normative activity.

Transparency of Government's decision-making needs to be enhanced so that the public has a comprehensive insight into which materials have been discussed at the Government sessions, even in the case that these materials have been declared confidential, their titles must be on the agenda, in order for the document contents to be confidential and not the fact that it was deliberated upon.

The e-Government portal for public consultations should be the central point for all public consultations that are ongoing, easy to search and able to inform users of new consultations, with advanced functionalities of interaction that provide opportunity for users to submit comments and the authorities to provide feedback online.

The Decree on the selection of NGO representatives to working bodies of the state administration and conducting public consultations in preparation of laws and strategies (Decree) should be amended so as to include the obligation of the authorities to prepare draft document (outline the key directions of the act) in the phase of early consultations (consulting of interested public).

State authorities should be obligated by the Decree to provide feedback to each individual comment that was received, as opposed to general responses to bulk comments or selective approach in which authorities choose the comments to which they will provide response, currently encouraged by the feedback form prescribed by the Annex 5 of the Decree.

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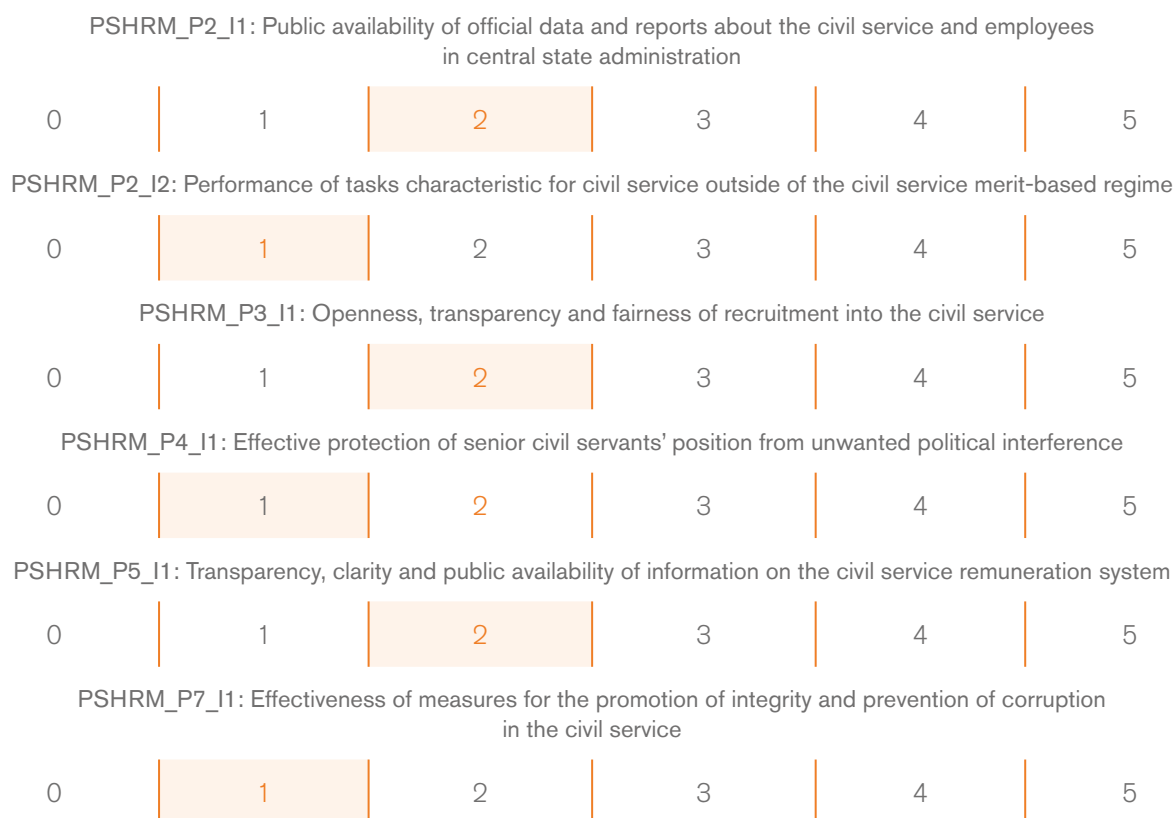
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N.

**PUBLIC SERVICE
AND HUMAN
RESOURCE
MANAGEMENT**

IV.1 WEBER INDICATORS USED IN PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT AND COUNTRY VALUES FOR MONTENEGRO



IV.2 RESULTS IN BRIEF FOR PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

In two out of six indicators, the situation is unchanged compared to the last round of monitoring, while in remaining four slight progress has been registered.

Apart from slight progress in the area of HR information system, availability of data on the public service in Montenegro is still severely limited. The only document where basic official data pertaining to the public service can be found is the Personnel Plan, which, although a legal obligation, is not published regularly. It does not have data on the number and structure of staff engaged on contracts outside of the scope of civil service law (ugovori o djelu), staff (experts) engaged on technical assistance projects, nor on the gender structure of the public service. There is no specific civil service annual report in Montenegro. HRMA's annual report does not cover career development (promotions and demotions), salaries/wages, corruption/integrity issues and measures, disciplinary procedures and decisions nor qualitative assessments of the state of play in the civil service, professionalisation, improvement of capacities or depoliticisation.

The number of temporary engagements for performing tasks characteristic of civil service in the central state administration is not limited by law. The Law on Civil Servants and State Employees states that the same procedure of employment applies to fixed-term contracts employees, as well as in the general employment, but there are exceptions in recruitment done outside of this law, and therefore without an open and transparent procedure. When it comes to how long can fixed-term contract actually last, legal limitations to duration do exist, but are too flexible and allow for other laws to extend the deadline if necessary.

The Government is not obliged to appoint the first-ranked person in the public competition process for senior managers. Its Commission for Personnel and Administrative Issues, whose work is not transparent, has vetting competencies in regards to appointments, not foreseen in the Law on Civil Servants and Employees.

Almost 70% senior-level appointments in the monitoring period were conducted without a public competition procedure. There is a tendency of extending the mandate of acting position senior managers by adopting a new decision on appointment after the current one expires, thereby circumventing the six-months limitation.

The civil service remuneration system is assessed as partially simply structured, mainly because of notable exceptions to the classification of pay grades, such as the exceptional staff, which are vague and with no criteria provided. Remuneration system is made less transparent by the possibly significant increases to the base salary, through a system of supplements whose limits are sometimes unclear, left to be regulated by collective bargaining agreements, with mutual exclusiveness of some of these types of supplement pay not foreseen.

IV.3 STATE OF PLAY IN PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

Depoliticization and professionalization of Montenegro's public administration remain the key declarative objectives which fall short of the achievements on the ground. The shift of the Government, brought about by the defeat of the longtime standing Democratic Party of Socialists in the parliamentary elections, brought to the fore specific challenges related to the merit-based recruitment and shield of the administration against undue political interference. The most recent civil service law started implementing in July 2018, although not all the pending by-laws were adopted on time, including the decree, which regulates the testing of the prospective candidates. The new law brought some positive changes and they were praised by the European Commission⁶⁶, although some of which were overturned by the amendments in 2019 and 2021⁶⁷. The most important novelties were delegation of authority to bring recruitment decision from ministers to senior civil servants in the ministry, to fill only positions envisaged by the workforce plan, formal professionalization of the disciplinary and appeals commissions, and better regulation of acting positions, since the new law initially envisaged that, as a rule, the acting senior civil servants should be appointed among the persons already employed in the administration body.

Still, most of the good promises of the new law remained a dead letter. For example, despite the good initial provisions on acting positions in the civil service, the situation on the ground rendered it meaningless. Although the Law limited the acting status to six months, this provision was frequently abused. The expiry of the six-month term would be noted, only to be extended to the same person, for additional six months, at the same Government meeting: 35 decisions to extend ad interim terms were passed within less than a year: from the beginning of 2019 until early December 2019.⁶⁸ The transparency of the recruitment procedures was not improved. Only access to general assessment reports is provided, which do not enable insight into specific tasks, questions and answers during the testing procedure.⁶⁹ Certain loopholes also remained, including the subsequent conversation with the shortlisted candidates. This conversation does not constitute a formal part of the assessment, although it may prove decisive in the recruitment process. It is not clear who leads the conversation and for what purpose, although it precedes the final recruitment decision, which is discretionary brought among the three shortlisted candidates. Such level of discretion is not justified given the relatively low competitiveness of recruitment procedures.⁷⁰

66 European Commission, Montenegro 2020 Report, Brussels, 6.10.2020, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/montenegro_report_2020.pdf

67 Law on civil servants and state employees, Official Gazette of Montenegro, No. 002/18 as of 10.01.2018, 034/19 as of 21.06.2019, 008/21 as of 26.01.2021

68 Milena Muk, Stevo Muk, Marko Sošić, 2019 Public Administration Reform Monitoring Report, Institute Alternative, Podgorica, January 2020, available at: http://media.institut-alternativa.org/2020/04/par_monitoring-izvjestaj_eng_ma.pdf

69 Milena Muk, Integrity of Recruitment in State Authorities: Assessment of abilities or partisanship?, Institute Alternative, Podgorica, January 2020, available at: http://media.institut-alternativa.org/2020/02/Integritet-zaposljavanja_en.pdf

70 The average number of candidates for senior civil service positions was 1.38 in 2019, for mid-level positions filled by internal announcements 1. For entry level positions and mid-level positions which could not be filled by the internal announcement, the average number of candidates (4.39) was slightly higher, but still not conducive for leaving large room for discretion in making final decision. See more: Izvještaj o radu Uprave za kadrove za 2019. Godinu, januar 2020. godine, available at: <https://uzk.gov.me/biblioteka/izvjestaji>

Simultaneously with the start of the implementation of the new civil service law, the implementation of the 2018-2020 Plan for optimization of public administration also kicked off. The methodological basis of the plan was very weak: it included the baseline data which were several months older than the start of the optimization period and there were no mechanisms to ensure the data validity. As a result, the optimization failed, which was noted not only in the independent reports by the credible NGOs, but also by the external evaluation of public administration strategy.⁷¹ Apart from failing to achieve its key objective of optimization, this specific plan had negative side effects on other aspects of public service and HRM: it downplayed the importance of workforce planning, the legal mechanism to optimize human resources and align them with budget cycle. The workforce planning is largely seen as formality, it is not followed by proper justification, and it often lags behind the legal deadlines. While introducing the general “moratorium” on employment, optimization plan also introduced additional mechanisms and exceptions, which did not have legal basis, such as approval of new employments by the inner Government cabinet, even in public institutions, such as theaters. Also, the 2019 amendments to the civil service law allowed the Government to recruit new people for positions, which were not previously envisaged by the Workforce plan, which added to the unpredictability and undue politicization of the recruitment and overall HRM practices.

All of these issues hampered some of the positive aspects of the new civil service law, which undergone further change with the formation of the new Government in early December 2020. The new parliamentary majority adopted the amendments which reduced the level of professional qualifications required for specific civil service categories, while not providing the evidence-based justification for such move, apart from the need to increase competitiveness and to provide people who were discriminated under previous regime with chance to get public administration recruitment. The law also introduced additional reason for termination of mandates of heads of administrative authorities, as specific senior civil service category. If the annual report of the administrative authority indicate irregularities in its works, this gives additional ground for dismissals of heads of administration authorities. So far, this mechanism has been used only once, although the turnover of senior civil servants following the 2020 parliamentary elections was considerably high, either because of the resignations or because of the large-scale reorganizations which followed. Also, it mirrored the high-level politicization of the senior civil service positions. Analysis by Institute Alternative demonstrated that at least 35 members only one advisory body of the former ruling party (DPS) occupies positions of general directors and secretaries in ministries and heads of administrative bodies and other institutions in the period preceding the elections. This included the position of the head of the Human Resource Management Administration.⁷² The 2021 amendments also overturned the previous provision that existing civil servants should be, as a rule, promoted to the acting senior civil service positions, while the public statements of the new parliamentary majority were not conducive of the narrative and policies aimed at depoliticization and professionalization of public administration.⁷³

IV.4 WHAT DOES WEBER MONITOR AND HOW?

WeBER monitoring within the PSHRM area covers five SIGMA Principles and relates exclusively to central administration (centre of Government institutions, ministries, subordinated bodies and special organisations). In other words, monitoring encompasses central government civil service, as defined by the relevant legislation (primarily the Civil Service Law). The selected principles are those that focus on the quality and practical implementation of the civil service legal and policy frameworks, on measures related to merit-based recruitment, use of temporary engagements, transparency of the remuneration system, integrity and anti-corruption in the civil service. The WeBER approach was based on elements which SIGMA does not strongly focus on in its monitoring, but which are significant to the civil society from the perspective of transparency of the civil service system and government openness, or the public availability of data on the implementation of civil service policy.

71 See: Milena Muk, Stevo Muk, Marko Sošić, 2019 Public Administration Reform Monitoring Report, Institute Alternative, Podgorica, January 2020, available at: http://media.institut-alternativa.org/2020/04/par_monitoring-izvještaj_eng_ma.pdf

72 Milena Muk, Ka upravi po zaslugama, a ne po mjeri partija, Institut alternativa, decembar 2020. godine, dostupno na: <http://media.institut-alternativa.org/2020/12/Ka-upravi-po-zaslugama-1.pdf>

73 Milena Muk, Political Appointments of Top Managers Go Against Professionalisation Promises, Institute Alternative, January 2021, available at: <https://institut-alternativa.org/en/political-appointments-of-top-managers-go-against-professionalisation-promises/>

The following SIGMA principles were selected for monitoring, in line with the WeBER selection criteria:

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

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

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

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

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

Monitoring of these principles combines the findings of SIGMA's assessment within specific sub-indicators. However, having in mind that there is no SIGMA assessment for 2020, WeBER researchers performed their own calculation of SIGMA sub-indicators in this PAR Monitor cycle, based on SIGMA's methodology. SIGMA/OECD cannot be held responsible for the result of such calculation, but only the authors of this report.

In addition, monitoring is based on WeBER's expert review of legislation, documents and websites, including collection and analysis of government administrative data, reports and other documents searched for online or requested through freedom of information (FOI) requests. To create a more balanced qualitative and quantitative approach, research included the measuring of perceptions of civil servants, CSOs and the wider public by employing perception surveys. Finally, data collection included semi-structured face-to-face interviews and focus groups with relevant stakeholders such as senior civil servants, former senior civil servants and former candidates for jobs in civil service, as well as representatives of governmental institutions in charge of the human resource management policy.

Surveys of civil servants and CSOs in the six Western Balkan administrations were implemented using an online survey tool, between the second half of June and the beginning of August 2020.⁷⁴ The civil servants' survey was in most administrations disseminated through a single contact point originating from national institutions responsible for the overall civil service system.⁷⁵ The CSO survey, was distributed through existing networks and platforms of civil society organisations with large contact databases, but also through centralised points of contact such as governmental offices in charge of cooperation with civil society.⁷⁶ To ensure that the CSO survey targeted as many organisations as possible in terms of their type, geographical distribution, and activity areas, and hence contributed to its representativeness as much as possible, additional boosting was done where needed. Finally, the public perception survey included computer-assisted personal interviewing of the general public (aged 18 and older) in the Western Balkans, during the period of 5 May - 30 May 2020.⁷⁷ In all three surveys, WeBER applied uniform questionnaires throughout the region and disseminated them in local languages, ensuring an even approach in survey implementation.

WeBER uses six indicators to measure the five principles mentioned above. In the first indicator, WeBER monitors the public availability of official data and reports about the civil service and employees in the central

74 Surveys were administered through an anonymous, online questionnaire. The data collection method included CASI (computer-assisted self-interviewing). In Montenegro, the civil servants' survey was conducted from 25 June to 23 July 2020, and the CSO survey in the period from 22 June to 27 July 2020.

75 For Montenegro, the survey sample was N=287. The base for questions within Principle 2 was n=251 respondents, Principle 3 had n=287 respondents, Principle 5 had n=221 respondents and Principle 7 had n=217 respondents.

76 For Montenegro, the survey sample was N=54. The base for questions within PSHRM area was n=46 respondents.

77 Perceptions are explored using a survey targeting the public (aged 18 and older) in the Western Balkans. The public perception survey employed a multi-stage probability sampling and was administered combining computer-assisted web and telephone interviewing (CAWI, and CATI), using a standardized questionnaire through omnibus surveys in Western Balkans during 5 May - 30 May 2020. For Montenegro, the margin of error for the total sample of 1005 citizens is $\pm 3.15\%$, at the 95% confidence level.

state administration. In the second indicator, monitoring includes the extent to which widely applied temporary engagement procedures undermine the merit-based regime. Openness, transparency, and fairness of recruitment into the civil service, as a particularly critical aspect of HRM in the public administration due to its public facing character, is examined within the third indicator. The fourth indicator places focus on the prevention of direct and indirect political influence on senior managerial positions in the public service, while the fifth indicator analyses whether information on the civil service remuneration is transparent, clear, and publicly available. Finally, in the sixth indicator, WeBER examines the promotion of integrity and prevention of corruption in the civil service.

IV.5 WEBER MONITORING RESULTS

PRINCIPLE 2: THE POLICY AND LEGAL FRAMEWORKS FOR A PROFESSIONAL AND COHERENT PUBLIC SERVICE ARE ESTABLISHED AND APPLIED IN PRACTICE; THE INSTITUTIONAL SET-UP ENABLES CONSISTENT AND EFFECTIVE HUMAN RESOURCE MANAGEMENT PRACTICES ACROSS THE PUBLIC SERVICE

WeBER indicator PSHRM_P2_I1: Public availability of official data and reports about the civil service and employees in central state administration

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| The Government keeps reliable data pertaining to the public service | 2/4 | 0/4 |
| The Government regularly publishes basic official data pertaining to the public service | 2/4 | 2/4 |
| Published official data includes data on employees other than full-time civil servants in the central state administration | 2/4 | 2/4 |
| Published official data on public service is segregated based on gender and ethnic structure | 0/2 | 0/2 |
| Published official data is available in open data format(s) | 0/1 | 0/1 |
| The government comprehensively reports on the public service policy | 2/4 | 2/4 |
| The government regularly reports on the public service policy | 2/2 | 2/2 |
| Reports on the public service include substantiated information concerning the quality and/or outcomes of the public service work | 0/2 | 0/2 |
| Data and information about the public service are actively promoted to the public | 0/2 | 0/2 |
| Total score | 10/21 | 8/21 |
| Indicator value (scale 0 – 5)⁷⁸ | 2 | 1 |

This indicator measures the extent and the quality of the information produced and provided by the Government to the public, regarding the number of employees in the public service and its structure. The focus is on the central government public (civil) service, as defined by the relevant legislation (Civil Service Law) as well as other categories of employees in central state administration. The slight progress in this area stems from HR information system which has been updated and in the process of being connected to other important databases compared to the last round of monitoring.

78 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

The first element looks in details about the functionality of the HR database with data on civil service. The link with the Ministry of Finance has been constructed, however, the payroll system itself is still not functional as a database that could be in sync with the HRMIS. The EU funded project supporting this is in course but the link is still not operational, though it exists. HRMA also plans a connection to government's GSB that would allow connections to Citizen register of the Ministry of Interior or Ministry of Education's higher education databases.

According to the Civil Service Law, article 153, civil servants that are updating HRMIS in each institution have the deadline of 15 days to update the system with the new information, after it occurs. However, according to HRMA, in practice this deadline is often breached.

All state institutions are in the HRMIS. However, according to the Law on Local Self-Government, their employees should be in the database as well, but this is still not the case.

There are three types of reports that can be exported from HRMIS: 1) an individual employee may export his or her own report with data from the HRMIS, 2) each individual institution may export data for its own employees, not only the existing ones by the report on vacancies, and other data variable that is entered into the database, 3) HRMA is the only institution that can view data from other institutions and can export horizontal reports encompassing the entire database, on any of the criteria.

Data on public servants contained and collected for HRMIS is assessed as comprehensive. According to the Civil Service Law and Rulebook on the detailed content and manner of keeping central personnel records and records of the internal labour market, article 4) HRMIS contains data on the state bodies, civil servants,⁷⁹ vacancies, trainees, basis of which the calculation of salaries will be performed, on the personnel plan.

The only document where basic official data pertaining to the public service can be found is the Personnel Plan. As an obligation introduced by the Civil Service Law, the Personnel Plan Should be adopted 30 days after the adoption of the Law on Budget for the current year. It contains data on how many people are currently working in state administration bodies (per institution and according to the basic ranks of the public service), how many jobs and positions are prescribed by the rulebooks on internal organisation and systematisation as well as how many people and in which positions should be recruited this year. However, In the monitoring period, this document was not regularly published – the Personnel Plan was published in 2019⁸⁰ and 2018⁸¹, but not in 2017. Information adopted by the Government in 2017⁸² states that the HRMA was not in a position to prepare a plan, inter alia, because certain ministries failed to adopt the rulebooks on systematisation or have failed to align them with the new Decree on the organisation and manner of work of the state administration.

The Personnel plan clearly presents data on the structure of civil servants and employees on the basis of indefinite and fixed term. It does not, however, have any data on the number and structure of staff engaged on contracts outside of the scope of civil service law (ugovori o djelu). It also does not contain data on staff (experts) engaged on technical assistance projects (IPA, Twinning, etc) who do not have contracts with the administration/government, but effectively perform civil servant tasks in the administration.

79 It contains: *name and surname, unique identification number, date and place of birth, address, contact telephone and e-mail, citizenship, mother tongue, nationality and religion, if the civil servant or state employee has declared his / her nationality and religion, type and level of qualification of education, passed exams, previous work experience and work experience, special knowledge and skills, type, number and date of decisions deciding on the rights and obligations of civil servants, ie employees, initiated disciplinary proceedings and imposed disciplinary measures professional training and advanced training.*

80 Available at: <https://bit.ly/2ACtXmi>

81 Available at: <https://bit.ly/3hCl7FG>

82 Information on the implementation of personnel planning in the state administration and Secretary General, Session No. 17 of the Government, held on 23 February 2017, available at: <http://www.gov.me/ResourceManager/FileDownload.aspx?rid=265692&rType=2>

Available data on public service in the Personnel Plans also does not include structure in terms of gender, men and women per institution or type of institution, or ethnic structure. Law on Civil Servants and State Employees does prescribe that the HRMIS entails data on nationality of the civil servants and employees.⁸³ In accordance with the Rulebook on contents of the HRMIS⁸⁴ the personal data on civil servants and employees includes data on their nationality, but only if the employee decides to give this information, since it is not obligatory. Gender is not mentioned as one of the information that is collected in either the law or the bylaws.

None of the data pertaining to the civil service is made available in any of the so called open formats⁸⁵, by HRMA or Ministry of Public Administration. National Statistical Office (MONSTAT), publishes data Public administration and social insurance, in the framework of general employment datasets. This data is available in xls format.⁸⁶ Since this data is collected on the basis of different methodology than that of the HRMA, based primarily on the Tax Administration registers, it was not counted as complying to the requirements posed by the methodology for this element.

There is no specific civil service annual report in Montenegro. However, the annual report on the work of the HRMA⁸⁷ covers in various degrees of details segments outlined as the that are components of an ideal civil service report. These reports are published regularly, for each year of the monitoring period. They contains information on the following key issues: planning and recruitments, appraisals, trainings (professional development programmes). It does not cover the following topics: career development (promotions and demotions), salaries/wages, corruption/integrity issues and measures, disciplinary procedures and decisions. Regarding the latter, report of the Appeals Commission has some data on the numbers and decisions taken in the cases related to recruitment, appraisals and wages of the civil servants and employees

The HRMA's report does not contain qualitative assessments of the state of play in the civil service, assessments of the quality of its work, professionalisation, improvement of capacities or depoliticisation. There is no attempt to present outcomes of the implementation of the Civil Service Law. The only assessments that go beyond listing the activities or statistics are related to technicalities of the HRMIS or general implementation of the law.

There is a section devoted to evaluation of the trainings, but no statistics is quoted, and very limited information is provided on the results of the trainings. The report of the HRMA for 2019 has a section called - Assessment of the state of affairs (Ocjena stanja) which is a bulleted summary of the achievements in that year and of the report itself (p. 50 of the report). It is predominantly an assessment of HRMA's own institutional functions and exercise of its competencies, not of the state of civil service in general. It gives no information about the overall state of play and quality of work of the public service, nor assessments whether the public service has become more or less professionalised, depoliticised, whether its capacity has improved or not. There is however an attempt to go beyond the form of the operational report of an institution, and give assessments of certain aspects of HRM where HRMA is not the sole participant, but its still very technical and output-focused, with no reflection on outcomes or performance of either the institution or the new instruments in the civil service system.

83 Article 152, Law on Civil Servants and State Employees, Official Gazette No. 002/18

84 Available at: http://www.uzk.co.me/images/stories/dokumenti/KIS_Uputsva_Pravila/Pravilnik_KIS.pdf

85 For the purposes of this report, publishing data in open format means that official data is: 1) Downloadable by different users; 2) Free of charge; 3) Published in a format which renders this data machine-readable (CSV, XLS, XML, JSON, RDF, TXT etc.).

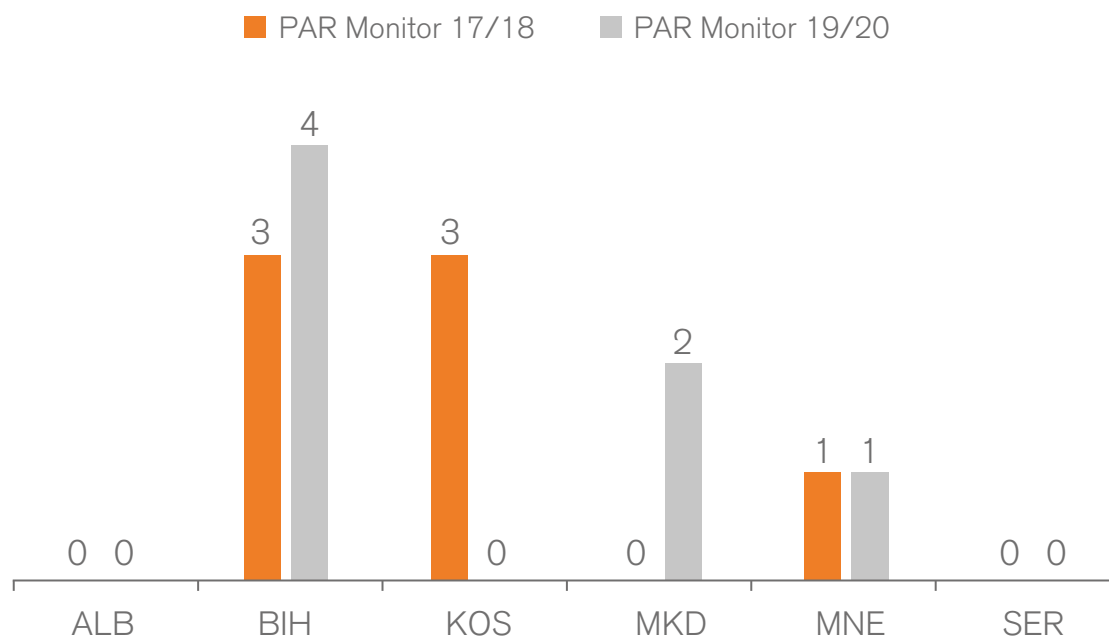
86 Available at: <https://www.monstat.org/cg/page.php?id=23&pageid=23>

87 Annual reports of HRMA available here: <http://www.uzk.gov.me/biblioteka/izvjestaji>

In regards to parts related to disciplinary procedures, since they are contained in separate reports, the reports of the Appeals Commission are also regular and published for each observed year,⁸⁸ but regularity cannot be established for Disciplinary Commission.⁸⁹

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PSHRM_P2_I1: Public availability of statistics and reports about the civil service and employees in central state administration



Regional PAR Monitor Reports with results for all WB administrations are available at: www.par-monitor.org.

88 Appeals Commission reports were published regularly during the monitoring period:
 2017 <http://www.kzz.gov.me/ResourceManager/FileDownload.aspx?rid=359466&rType=2&file=lzvjestaj%20Komisije%20za%20zalbe%202017%20final.docx>
 2018 - <http://www.gov.me/ResourceManager/FileDownload.aspx?rid=356062&rType=2>
 2019 - <http://www.gov.me/ResourceManager/FileDownload.aspx?rid=403277&rType=2>

89 Disciplinary Commission:
 2019 - <http://www.gov.me/ResourceManager/FileDownload.aspx?rid=403306&rType=2>
 Although adopted, reports for 2018 and 2017 were not publicly available online during the monitoring phase, due to the inaccessibility of the Commission's website (<http://www.dk.gov.me/komisija>)

WeBER Indicator PSHRM_P2_I2: Performance of tasks characteristic for civil service outside of the civil service merit-based regime

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| The number of temporary engagements for performance of tasks characteristic of civil service in the central state administration is limited by law | 0/4 | 0/4 |
| There are specific criteria determined for the selection of individuals for temporary engagements in the state administration | 0/4 | 0/4 |
| The hiring procedure for individuals engaged on temporary contracts is open and transparent | 0/4 | 0/4 |
| Duration of temporary engagement contracts is limited | 0/4 | 0/4 |
| Civil servants perceive that temporary engagements in the administration are an exception | 1/2 | 1/2 |
| Civil servants perceive that performance of tasks characteristic of civil service by individuals hired on a temporary basis is an exception | 1/2 | 1/2 |
| Civil servants perceive that appointments on a temporary basis in the administration are merit-based | 1/2 | 1/2 |
| Civil servants perceive that the formal rules for appointments on a temporary basis are applied in practice | 1/2 | 1/2 |
| Civil servants perceive that individuals hired on a temporary basis go on to become civil servants after their contracts end | 0/2 | 0/2 |
| Civil servants perceive that contracts for temporary engagements are extended to more than one year | 1/2 | 1/2 |
| Total score | 5/28 | 5/28 |
| Indicator value (scale 0 – 5)⁹⁰ | 1 | 1 |

This indicator assesses the scope and use of temporary forms of employment in the civil service, as a deviation from the standard civil service regime that is legally regulated and subject to specific merit-based criteria.⁹¹ Its measurement combines legislative analysis, collection and analysis of government data with the results of a survey of civil servants, which is conducted in each country and cuts across the HRM principles and indicators. In contrast to other countries in the region where the questionnaire for the survey⁹² was distributed centrally to civil servants by the authority dealing with PAR or IT development of the administration, this was not the case in Montenegro. Ministry of Public Administration refused to disseminate the questionnaire centrally to civil servants, despite the existence of technical preconditions for such an activity, claiming it is not within their jurisdiction to do so. Therefore, the researchers were forced to disseminate the questionnaire in a decentralised manner (i.e. by contacting and requesting dissemination from each individual ministry and other administration authority). There has been no change in either legislation, practice or attitudes in this indicator compared to the last round of monitoring.

90 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

91 Experts and consultants hired and paid from external (technical assistance) projects or contracted through public procurement procedures (consultancy work) are not covered by this indicator. Also, general service employees, as a category stipulated by the public (civil) service legislation, are not covered by this indicator.

92 See the methodological annex for details about the distribution and sampling of the survey.

The number of temporary engagements for performing tasks characteristic of civil service in the central state administration is not limited by law In Montenegro.

Civil servants and state employees in Montenegro are, as a rule, employed for an indefinite time period.⁹³ Exceptions to this rule include several situations in which a civil servant or a state employee can be employed on a fixed term contract of maximum up to 2 years: replacing an absent employee, conducting tasks with a limited period of duration, helping perform a temporary increase in the workload, traineeship.⁹⁴ There is no limitation in either total number or percentage of the fixed term employees in the public sector in the Law on Civil Servants and State Employees.

The Law on Civil Servants and State Employees states that the same procedure of employment applies to fixed-term contracts employees, as well as in the general employment (non-fixed term contracts). This means that the criteria applied to recruitment in general, such as general conditions laid out in the Law⁹⁵ to be met by a person in order to be eligible for employment, also apply to persons hired on temporary based contracts.⁹⁶

There is an exception, as defined by the new Law, that can be used by the head of an institution, allowing the recruitment on fixed-term basis without the public call procedure, with a directly chosen person from the registry of the Unemployment Bureau, for replacing an absent employee or solving the temporary surplus of workload. This kind of contract is vaguely limited in terms of duration (up to six months, if another law doesn't allow for longer), but explicitly limited that it cannot be concluded again with the same person.

However, since the recruitment of short-term experts outside of systematisation (*ugovori o djelu*), is not done on the basis of the Law on Civil Servants and Employees, there is no open and transparent procedure, or any specific criteria determined for the selection of individuals for temporary engagements in the state administration (experts).

When it comes to how long can fixed-term contract actually last, legal limitations to duration do exist, but are too flexible and allow for other laws to extend the deadline if necessary. Law on Civil Servants and State Employees prescribes several different reasons for allowing temporary contacts, and different time ranges, but none longer than 24 months.⁹⁷ The exception concerning *temporary engagements for handling increase of the amount of work that cannot be done with the existing number of civil servants and employees*, it is stated that it can last for a maximum of six months, unless otherwise provided by special law. This limitation is not clear and can be interpreted to leave the space for flexible arrangements or justifications for prolonged engagement on temporary basis.

When it comes to recruitment for temporary engagements without a public call, such recruitments are limited to 6 months in duration, conditioned by a statement on funds secured for that position in the budget. Again, this limitation is not final because it again leaves a possibility that another law may take precedence ("unless another law regulates the matter differently⁹⁸). On the other hand, the Law explicitly limits this procedure, stating that the decision on recruiting a person in this manner can be adopted only once with a specific person. This means that although the time limit is not entirely precise, a manager cannot renew the contract with the same person in this manner.

93 Article 52, Law on Civil Servants and State Employees, Official Gazette No. 002/18, also present in the previous version of the law, Article 48, Official Gazette No. 039/11, 050/11, 066/12, 034/14, 053/14, 016/16.

94 Article 52, Law on Civil Servants and State Employees, Official Gazette No. 002/18

95 Article 34, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

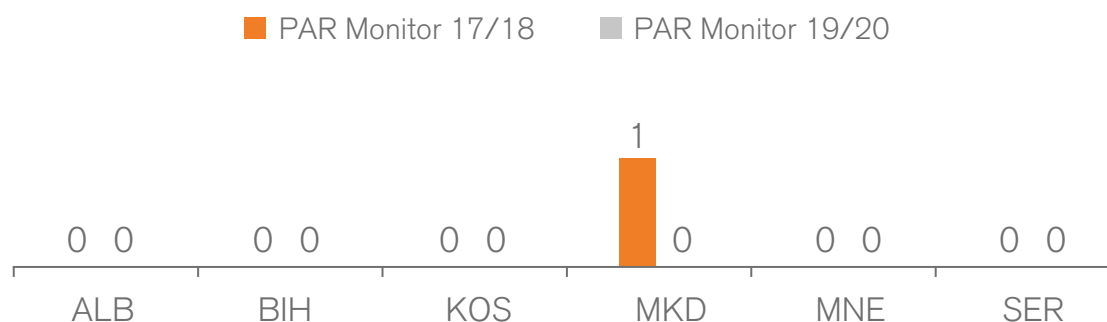
96 Ibid, article 52.

97 Among else, the reasons are replacement of a temporarily absent civil servant or employee - maximum of two years; - execution of project tasks with a certain duration, during the duration of the project - maximum two years. Article 52, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

98 Article 52, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PSHRM_P2_I2: Performance of tasks characteristic for civil service outside of the civil service merit-based regime central state administration



Regional PAR Monitor Reports with results for all WB administrations are available at: www.par-monitor.org

PRINCIPLE 3: THE RECRUITMENT OF PUBLIC SERVANTS IS BASED ON MERIT AND EQUAL TREATMENT IN ALL ITS PHASES; THE CRITERIA FOR DEMOTION AND TERMINATION OF PUBLIC SERVANTS ARE EXPLICIT;

WeBER Indicator PSHRM_P3_I1: Openness, transparency and fairness of recruitment into the civil service

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| Information about public competitions is made broadly publicly available | 2/4 | 2/4 |
| Public competition announcements are written in a simple, clear and understandable language | 2/4 | 0/4 |
| During the public competition procedure, interested candidates can request and obtain clarifications, which are made publicly available | 2/4 | 2/4 |
| There are no unreasonable barriers for external candidates which make public competitions more easily accessible to internal candidates | 2/2 | 0/2 |
| The application procedure imposes minimum administrative and paperwork burden on candidates | 0/4 | 0/4 |
| Candidates are allowed and invited to supplement missing documentation within a reasonable timeframe | 0/4 | 0/4 |
| Decisions and reasoning of the selection panels are made publicly available, with due respect to the protection of personal information | 0/4 | 0/4 |
| Information about annulled announcements is made publicly available, with reasoning provided | 2/4 | 0/4 |
| Civil servants perceive the recruitments into the civil service as based on merit | 1/2 | 1/2 |
| Civil servants perceive the recruitment procedure to ensure equal opportunity | 2/2 | 2/2 |
| The public perceives the recruitments done through the public competition process as based on merit | 1/2 | 1/2 |
| Total score | 14/36 | 8/36 |
| Indicator value (scale 0 – 5)⁹⁹ | 2 | 1 |

⁹⁹ The focus of this indicator is on the recruitment into the civil service, more specifically through the analysis of conversion of points: 0 points – 0, 1 points – 1, 2 points – 2, 3 points – 3, 4 points – 4, 5 points – 5

of the characteristics of the public competitions, as an open and transparent recruitment method which should ensure that the best candidates get civil service jobs. The methodology is based on the combination of analysis of administrative data pertaining to public competitions for public (civil) service positions and the perceptions of the public, and the civil servants themselves. The main sample for analysis are five most recent, completed public competitions for civil service jobs in each country for the year preceding the monitoring, from five different state administration authorities. Additionally, to better inform the research, five former candidates for civil service jobs who applied to various levels of job positions as external candidates (i.e. candidates who were not already civil servants or hired via contracts in the public administration) were interviewed. **Progress has been recorded in this indicator compared to the last round of monitoring, in how the public competition announcements are written in terms of clarity and citizen-friendliness, lowering of formal unreasonable barriers for external candidates with the new Civil Service Law as well as the introduction of practice of publishing information about the annulled announcements.**

Broad public availability of the public competitions is established through the central portal of the HRMA. According to the Law on Civil Service (Law on Civil Servants and Employees), public competitions are published on the webpage of the Human Resource Management Authority (HRMA) as well as in a printed media available nation-wide.

Publishing in printed media is done through the daily newspaper "Pobjeda" - the paper does not publish the adverts on its website (online edition) while printed editions from 2019 were not available to researchers. There is neither obligation nor practice for institutions to publish public competition (javni oglas, javni konkurs) adverts on their own websites, or their social media accounts (this is only obligatory for internal competitions). HRMA's social media account does publish posts about newly advertised public competitions, but review shows that this practice was started in mid 2020, and does not cover the monitoring period or the public competitions from the sample.

In the HRMA's portal, public competition text is made available for download in doc and pdf. There is also a special section called "an overview of the position" which contain the same information about eligibility and basic information about the position that is advertised, as well as an overview of the documentation (legislation) that will be used in the testing process for this position, that is different for each position in the sample.

The Rulebook on the content [...] of advertisements (adopted in 2018) imposes a very bureaucratic and stripped down structure (content) of the public competitions. All these elements are contained in each of the sample public competitions. The structure of all public announcements is uniform, there are no variations in content or style between institutions.

The requirements are listed clearly, as are the deadlines for submission and testing. The required documentation is listed in bullet points, and then some of the items are explained in more detail below, and forms/templates for some of the documentation required are hyperlinked directly in the public announcement. The Rulebook does not foresee the need for the ads to also contain job descriptions. Therefore, public announcements do not contain job descriptions, save for the titles of the positions and departments within the institution. While these can be self-explanatory, not even an effort to copy the job description already available in the rulebooks on organisation and systematisation is made. Although sufficiently clear, there is no effort registered to transform the legal and bureaucratic language into a simpler and citizen-friendly tone. Effort is invested in explaining the legal requirements and the procedure of applying for the job, but not in ensuring the candidates understand what the position is about, what is the job description, expectations or key duties.

General conditions for all candidates for civil service jobs prescribe 5 general conditions: citizenship, age, health requirements for conducting the job, level of education, no convictions for criminal charges that would make him/her not worthy of the position).¹⁰⁰ It does allow other laws and bylaws to introduce additional requirements for specific job positions, but it also contains an anti-discrimination clause.

100 Article 32, Law on Civil Servants and State Employees, Official Gazette No. 039/11, 050/11, 066/12, 034/14, 053/14, 016/16.

It is not clear what kind of criminal offence makes a person unfit for work in the civil service. This is not clarified in detail in the Law, and it is a space for potential discretionary decisions or discrimination. Additionally, although the Law states that the documentation proving this fact will be gathered ex officio, the individual public ads list “a court certificate that no criminal proceedings are raised against a person” as one of the necessary documents that the candidate needs to obtain.

State exam is now required (it was not the case in the previous version of the Law) and represents an entry level requirement (Articles 34 and 36) for all civil service positions except in the cases if the person already has passed the bar exam (pravosudni ispit) or if the position in question is at the level 3 of state employee (namještenik). The exam itself can be taken if a person has acquired 3rd level of education qualification and at least a year of professional experience at that level.

The Law foresees a possibility for imposing other professional exams or certifications as a condition for performing civil service tasks, if they are required for specific positions (Article 37). The ad for Customs Administration imposes a professional customs test on top of the general professional exam as a requirement. Individual ads also contain language requirements (English A1-B1 respectively). A person that is not a Montenegrin citizen can be employed as a state employee (namještenik) under conditions defined by special laws and international agreements. Ability to conduct the advertised job in terms of health requirements is necessary to be proven, by a certificate issued by an official health care institution (article 35). The Law forbids discrimination based on state of health and the health certificate cannot contain data on the state of health, only the assessment can the person undertake the jobs required (though it is not clear in which sense and what is the distinction between the two).

Regarding administrative and paperwork burden on the candidates, there is no two-phase process of submitting the documentation. HRMA prepares the first list of candidates which are assessed as eligible and fulfilling the conditions of the announcement. The next step is the official testing process, that does not entail submission of any additional documentation. Therefore, the candidates must submit all required documentation upfront and there are no phases in this regard (that would entail submission of additional documentation for candidates that pass a certain threshold). Regardless of the position that is advertised, a candidate must submit the same documentation and it is the same regardless of position.¹⁰¹ Some of them belong to state registries (citizenship certificate, state examination certificate), and should, under the Law on Administrative Procedure, be acquired by the administration through ex officio exchange of data. There is no explicit provision in the Law on Civil Servants and Employees that would allow the right for supplementing documentation after the deadline has passed. Applicants who have failed to submit entire documentation are automatically rejected.

There is no obligation for the authorities to publish the decision (*rješenje*) on selection and recruitment of the candidates. There is a practice of publishing the results of the testing process and the list of candidates in ranking order.¹⁰² However, due to the discretion of the head of authority to select any of the successful candidates from the list¹⁰³, this is not an information on who was recruited.

There is no legal obligation for the authorities that are announcing the public competition notice or the HRMA to make the decision on annulment public. The decision to withdraw the ad and suspend the procedure for filling the vacancy must be accompanied by a rationale (Rulebook, article 4) as well as delivered to all the candidates who applied for the advertisement for which the decision was made. In practice however, the annulled ads do contain a special banner to see the rationale, but in most cases the rationale just points to a decision on annulment that was adopted by the institution that is advertising for that position - without the decision itself being available, or the extract explaining the reasons being copied in the HRMA's public registries.¹⁰⁴

101 This list entails: 1. Application form, 2. CV, 3. citizenship certificate, 4. photocopy of the personal id card (if biometric and notarised, no citizenship certification needed), 5. health certificate, 6. education degree, 7. confirmation about no criminal convictions, 8. template for the work experience guarantee, 9. state examination certificate

102 Example:

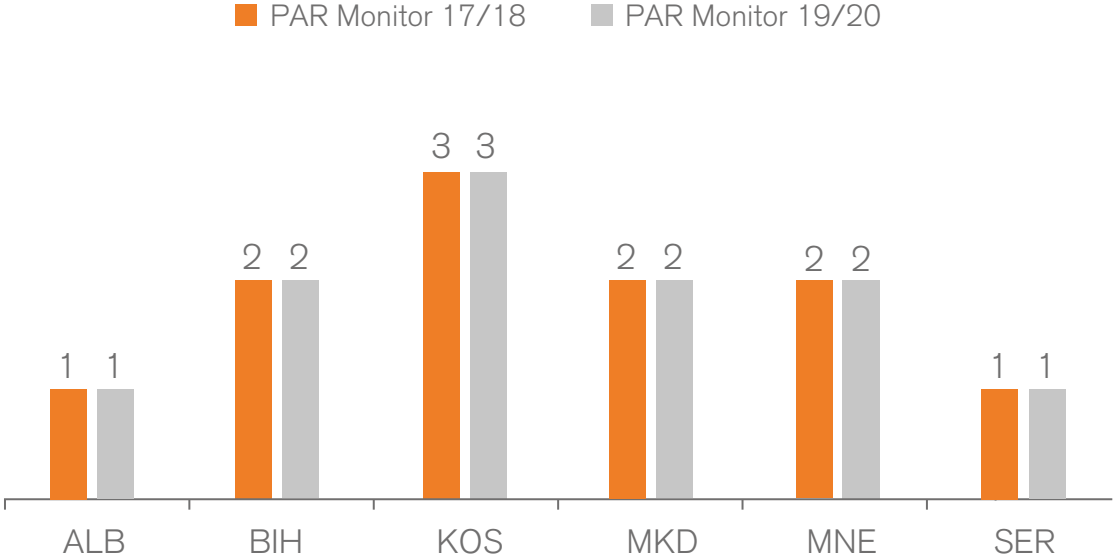
http://www.uzk.gov.me/Oglasavanje/Rezultati_provjere_sposobnosti/190520/Rezultati-sa-postupka-provjere-sposobnosti-Ministarstva-finansija-postavljeno-13-09-2018.html

103 Article 45 in the old Law and Article 47 in the new Law on Civil Servants and State Employees.

104 Information on the withdrawal of ads available at: https://uzk.gov.me/Oglasavanje/Povlacenje_Oglasa

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PSHRM_P3_I1: Openness, transparency, and fairness of recruitment into the civil service



Regional PAR Monitor Reports with results for all WB administrations are available at: www.par-monitor.org.

PRINCIPLE 4: DIRECT OR INDIRECT POLITICAL INFLUENCE ON SENIOR MANAGERIAL POSITIONS IN THE PUBLIC SERVICE IS PREVENTED

WeBER Indicator PSHRM_P4_I1: Effective protection of senior civil servants' position from unwanted political interference

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| The Law prescribes competitive, merit-based procedures for the selection of senior managers in the civil service | 2/2 | 1/2 |
| The law prescribes objective criteria for the termination of employment of senior civil servants | 0/2 | 2/2 |
| The merit-based recruitment of senior civil servants is efficiently applied in practice | 0/4 | 0/4 |
| Acting senior managers can by law, and are, only appointed from within the civil service ranks for a maximum period limited by the Law | 0/4 | 0/4 |
| Ratio of eligible candidates per senior-level vacancy | 0/4 | 0/4 |
| Civil servants consider that the procedures for appointing senior civil servants ensure that the best candidates get the jobs | 1/2 | 1/2 |
| CSOs perceive that the procedures for appointing senior civil servants ensure the best candidates get the jobs | 0/2 | 0/2 |
| Civil servants perceive that senior civil servants are appointed based on political support | 0/2 | 0/2 |
| Existence of vetting or deliberation procedures on appointments of senior civil servants outside of the scope of the civil service legislation | 0/2 | 0/2 |
| Civil servants consider that senior civil servants would not implement and can effectively reject illegal orders of political superiors | 1/2 | 1/2 |
| Civil servants consider that senior civil service positions are not subject to political agreements and "divisions of the cake" among the ruling political parties | 1/2 | 1/2 |
| Civil servants perceive that senior civil servants are not dismissed for political motives | 1/2 | 1/2 |
| Civil servants consider the criteria for dismissal of senior public servants to be properly applied in practice | 1/2 | 1/2 |
| CSOs consider senior managerial civil servants to be professionalised in practice. | 0/2 | 0/2 |
| Civil servants perceive that senior civil servants do not participate in electoral campaigns of political parties | 1/2 | 0/2 |
| Share of appointments without competitive procedure (including acting positions outside of public service scope) out of the total number of appointments to senior managerial civil service positions | 0/4 | 0/4 |
| Total score | 8/40 | 8/40 |
| Indicator value (scale 0 – 5)¹⁰⁵ | 1 | 1 |

105 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

The Civil Service Law prescribes a procedure for senior manager appointment, that includes public competitions, testing and preparation of a ranking list, with a proposal for the Government¹⁰⁶. However, after this procedure is over, the Government is not obliged to appoint the first-ranked person indicated by the process.

Although this is not specified in the Law on Civil Servants and State Employees, Government's Commission for Personnel and Administrative Issues, as its permanent working body, has the competencies in regards to appointments and dismissals, giving the consent on those appointments that are by law determined to be under the jurisdiction of the Government.¹⁰⁷ This is also valid for candidates for acting positions.

In practice, it is the Government's Commission for Personnel and Administrative Issues that checks the proposal of the head of an authority (minister) who is proposing to appoint an acting manager. Its work is regulated by the Rules of Procedure of the Government in a very broad manner, without precise overview of the procedure for checking the proposal of the decision on appointment and no transparency in deliberation.

Review of the Government decisions on the senior-level appointments in the period 01/01/2019-31/12/2019 gathered the following data:

*there were 96 decisions appointing acting senior managers (without the previous competition)

*there were 69 decisions appointing senior managers, out of which 17 were conducted without competition. Out of 52 that were done with the competition procedure, all of them were public.

Out of the total number of appointments (165) during the examined period, 113 were conducted without a public competition procedure, or 68,48,6%.

The new Law prescribes that in the case that the senior manager's mandate has ceased, person can be appointed in the acting position for the period of up to six months.¹⁰⁸ Review of practice of these appointments to acting positions showed a tendency of extending the mandate of the acting position senior manager by adopting a new decision on appointment after the current one expires. This person can be an employee from the institution, from the public administration in general that fulfils the criteria for prescribed for the senior manager s/he is replacing (only the central administration, as defined by the Law¹⁰⁹). However, if no such persons can be found in the institution or wider administration, a person from outside the civil service can be hired, again, if s/he fulfils the criteria¹¹⁰, though without any selection procedure.¹¹¹

The Law on Civil Servants and State Employees does not specify the procedure for checking are there civil servants who can be appointed as acting managers, but the HRMIS (*Centralna kadrovska evidencija*) is the only resource available to conduct this check up.

Additionally, Administrative inspectorate has the mandate to, among else, check the legality and procedure of appointments (not precisely specified that acting position appointments are included), and if irregularities are registered, and then not corrected by the head of the authorities, the Appeals commission can annul the decision on appointment.¹¹² However, sanctions prescribed by the Law on Civil Servants and State Employees do not cover the acting positions appointment procedure.

106 Articles 56-59, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

107 Article 17, Rules of Procedure of the Government of Montenegro, Official Gazette No. 003/12, 031/15, 048/17.
See more about the lack of transparency of its work in chapter on Policy development and coordination.

108 Article 61, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

109 Article 3, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

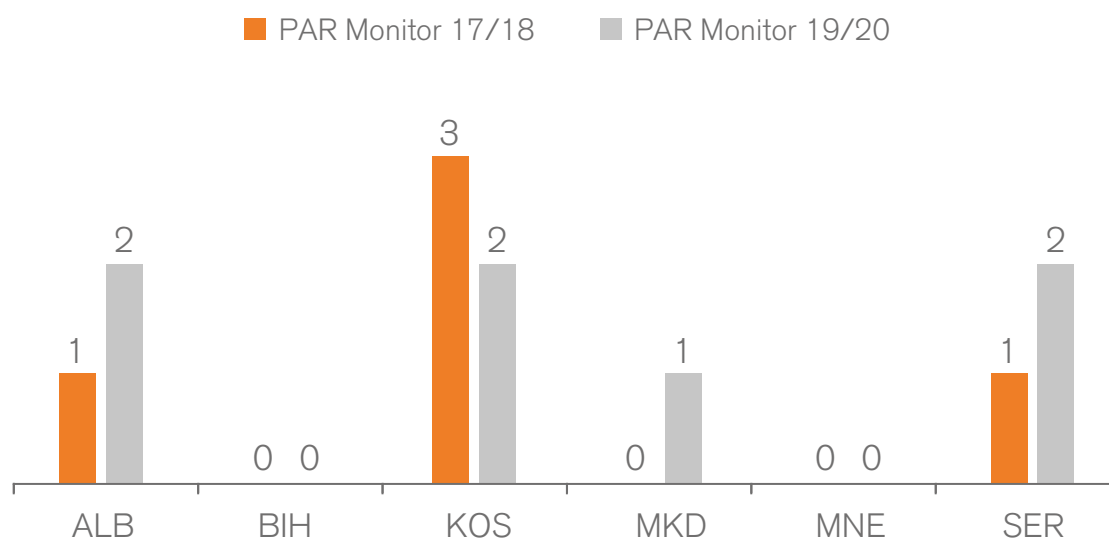
110 These criteria for senior managers (*starješine organa i visoki rukovodni kadar*) are prescribed in articles 22 and 24 of the Law on Civil Servants and State Employees, Official Gazette No. 002/18.

111 Article 61, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

112 Articles 155-156, Law on Civil Servants and State Employees, Official Gazette No. 002/18.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PSHRM_P4_I1: Effective protection of senior civil servants' positions from unwanted political inference



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PRINCIPLE 5: THE REMUNERATION SYSTEM OF PUBLIC SERVANTS IS BASED ON THE JOB CLASSIFICATION; IT IS FAIR AND TRANSPARENT

WeBER Indicator PSHRM_P5_I1: Transparency, clarity and public availability of information on the civil service remuneration system

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| The civil service remuneration system is simply structured | 2/4 | 2/4 |
| The civil service salary/remuneration system foresees limited and clearly defined options for salary supplements additional to the basic salary | 2/4 | 2/4 |
| Information on civil service remuneration system is available online | 2/6 | 0/6 |
| Citizen friendly explanations or presentations of the remuneration information are available online | 0/2 | 0/2 |
| Discretionary supplements are limited by legislation and cannot comprise a major part of a civil servant's salary/remuneration | 2/4 | 0/4 |
| Civil servants consider the discretionary supplements to be used for their intended objective of stimulating and awarding performance, rather than for political or personal favouritism | 1/2 | 1/2 |
| Total score | 9/22 | 5/22 |
| Indicator value (scale 0 – 5)¹¹³ | 2 | 1 |

113 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

Key reason for progress in this indicator lies in the very low base result in the previous round of monitoring, that caused even small changes such as publishing of an up to date version of the wages law to be able to increase the result. Additionally, IA's data shows that the percentage of bonuses in total remuneration is well below 20% which also caused an increase in the results, but the problems in their definitions, overlaps and lack of transparency remain.

The civil service remuneration system, as defined by the Law on Wages in the Public Sector is assessed as partially simply structured.¹¹⁴ Article 22 of the Law on Wages of the Public Sector Employees¹¹⁵ has a chart with clearly provided coefficients or other numerical values per public service rank/position. However, there are notable exceptions, such as Article 27 on exceptional staff, which are left very vague and no criteria is provided by the Law. As a result of the Article 27 provision, the overall system is assessed as partially simply structured.

The general information on salary levels (salary scale) is available on an official website. Information is contained in the Law on Wages of Employees in the Public Sector, which is available in the Library section of the HRMA website.¹¹⁶ of the website of the Ministry of Public Administration and the central governmental portal returned no results for any kind of citizen-friendly or simplified presentation of the remuneration system in general. Also, job announcements do not provide information on the salary.

The civil service salary/remuneration system does not foresee clearly defined options for salary supplements additional to the basic salary. The Law on Wages prescribes 5 types of supplement pay,¹¹⁷ prescribing limits to some of them and leaving some to be regulated by collective bargaining agreements. In this sense, the law gives superiority to the collective bargaining agreements, instead of prescribing the limits that these agreements should then be based on.

Supplement pay for performing work in certain job positions can amount to 30% of the base salary. Special supplement pay for positions in the sector of fighting organised crime and corruption, money laundering, war crimes persecution can be awarded, and is regulated by a special bylaw. It is not limited explicitly as such, but article 19 states that this supplement combined with the one on certain job positions cannot be greater than 45% of the base salary. This is a significant addition to the base salary which it is left to be decided to by the bylaw of the Ministry. In the same time, there is a similarity with other types of supplements (Supplement pay for performing work in certain job positions; Special supplement), which makes the same employees eligible for both automatically). Additionally, the Law does not specify the mutual exclusiveness of some of these types of supplement pay, which combined can alter the base salary in a significant way, making the remuneration system less transparent.

Bonuses, or variable pay are limited to the amount of up to 50% of the average salary in Montenegro in the preceding year according to Monstat (therefore not tied to the salary of the individual employee being given a bonus or public sector average salary). No other limits are imposed and potentially, an employee could have a constant bonus, variable pay for each of the 12 months.

There is no way to determine the exact "percentage of bonuses with respect to total gross annual salary by professional category", as this figure is not published or calculated by the authorities. Bonuses are not visible in the budget structure, as they fall into either net salaries or other compensation categories, cramped with other budget expenses of similar type.

114 Simple structure of a remuneration system is defined so as to entail a table with clearly provided coefficients or other numerical values per public service rank/position and a clear and limited set of rules and formulas for calculating supplements (both statutory and discretionary).

115 Law on Wages of the Public Sector Employees, Official Gazette, No. 016/16, 083/16, 021/17, 042/17, 012/18, 039/18, 042/18.

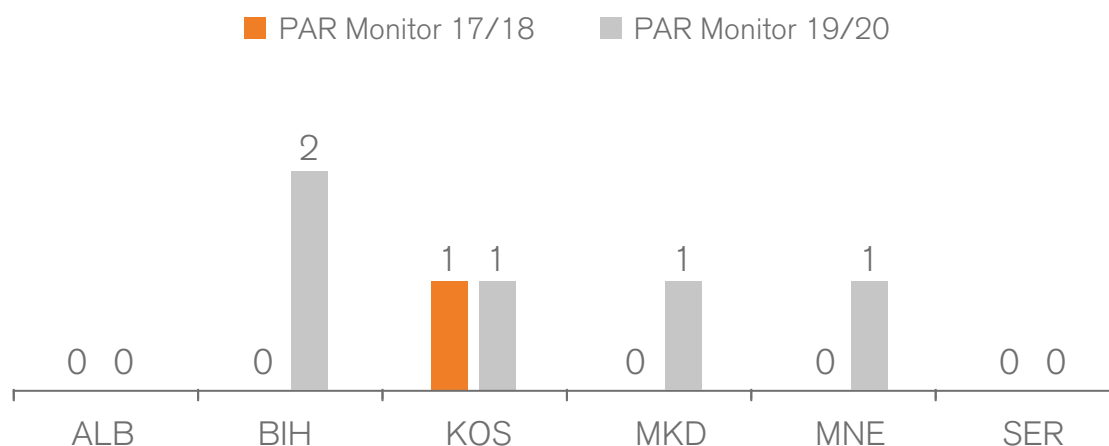
116 See: <https://uzk.gov.me/biblioteka/zakoniReview>

117 These are: 1) Supplement pay for night work, work during state or religious holidays and overtime; 2) Supplement pay for performing work in certain job positions; 3) Special supplement; 4) Supplement on the basis of length of service (years of work); 5) Supplement for duty work (dežurstvo) and state of alert (pripravnost). Article 15, Law on Wages of the Public Sector Employees, Official Gazette, No. 016/16, 08.03.2016, 083/16, 31.12.2016, 021/17, 31.03.2017, 042/17, 30.06.2017, 012/18, 23.02.2018, 039/18, 15.06.2018, 042/18, 29.06.2018)

Documentation of the Ministry of Finance which IA got via FoI lists variable pay by institution and by month during 2019 and first nine months of 2020. IA then compared these amounts to the overall gross salaries for 2019 and calculated 2019 percentages. Average ratio between bonus pay and gross salary is **3,11%**.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PSHRM_P5_I1: Transparency, clarity, and public availability of information on the civil service remuneration system



Regional PAR Monitor Reports with results for all WB administrations is available at: www.par-monitor.org.

PRINCIPLE 7: MEASURES FOR PROMOTING INTEGRITY, PREVENTING CORRUPTION AND ENSURING DISCIPLINE IN THE PUBLIC SERVICE ARE IN PLACE

WeBER Indicator PSHRM_P7_I1: Effectiveness of measures for the promotion of integrity and prevention of corruption in the civil service

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| Integrity and anti-corruption measures for the civil service are formally established in the central administration. | 2/4 | 2/4 |
| Integrity and anti-corruption measures for the civil service are implemented in the central administration. | 2/4 | 0/4 |
| Civil servants consider the integrity and anti-corruption measures as effective. | 1/2 | 1/2 |
| CSOs consider the integrity and anti-corruption measures as effective. | 0/2 | 0/2 |
| Civil servants consider that the integrity and anti-corruption measures are impartial. | 1/2 | 1/2 |
| CSOs consider that the integrity and anti-corruption measures in state administration are impartial. | 0/2 | 0/2 |
| Civil servants feel they would be protected as whistle blowers. | 0/2 | 0/2 |
| Total score | 6/18 | 4/18 |
| Indicator value (scale 0 – 5)¹¹⁸ | 1 | 1 |

¹¹⁸ This indicator combines expert assessments based on SIGMA methodology on the anti-corruption measures
 118 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

for the public service with perception-based elements, relying on the perceptions of civil servants and the civil society. The only progress registered in this round pertains to the formal existence of integrity plans in all of the central institutions.

Formal integrity and anti-corruption measures are in place in the civil service, but their implementation remains deficient. Montenegro does not have an overall anticorruption strategy or unified integrity plan. According to the Law on Prevention of Corruption, a public authority (institution) has the duty to adopt an integrity plan. Integrity plan is an internal anticorruption document containing a collection of legal and practical measures for prevention and elimination of possibilities for occurrence and development of various forms of corrupt and unethical behaviour in a public authority as a whole, its individual organisational units, and job positions. According to the Agency's records, 706 authorities were required to adopt and submit an integrity plan to the Agency. As of December 31, 2019, the legal obligation to adopt an integrity plan has been fulfilled by 689 authorities (about 98% of authorities).¹¹⁹

Integrity plan is a result of the self-assessment of a public authority of its exposure to the risks for occurrence and development of corruption, illegal lobbying practice, and conflict of interest, as well as the proneness/exposure to unethical or unprofessional conduct. Integrity plan can be amended as per the needs, development and interests of a public authority, and every other year, public authorities must assess the effectiveness and efficiency of their integrity plans, in accordance with the Rules for development and implementation of integrity plan.

When it comes to completeness of the legal framework for public sector integrity, it includes the following elements: 1) conflicts of interest for all public servants;¹²⁰ 2) restriction of secondary employment for civil servants;¹²¹ 3) restrictions to minimise "revolving doors"(including post-employment) for senior civil servants, particularly for regulators;¹²² 4) rules related to the receipt of gifts and benefits, including a maximum value threshold;¹²³ 5) obligation to disclose assets for senior civil servants (not necessarily publicly);¹²⁴ 6) whistle-blower protection for all public servants; 7) code of conduct and/or ethical guidelines for all public servants;¹²⁵ 8) regulation of major breaches of the law in the penal code.¹²⁶How does Montenegro fare in regional terms?

119 Source: Annual Report of the Anti-Corruption Agency for 2019, available at:

https://www.antikorupcija.me/media/documents/lzvjestaj_o_donosenju_i_sprovođenju_planova_integriteta_u_2019_godini.pdf

120 The Civil Service law has a chapter of articles on conflict of interest for all public servants (Articles 75-80). The Law on Prevention of Corruption has additional provision related to conflict of interest for public officials (including senior managers in the civil service) (articles 7, 8 and others).

121 Article 79 of the Civil Service Law prescribes conditions under which a public servant may have an additional employment, including written approval of the manager and no conflict with the competencies in the civil service.

122 Article 15 of the law on prevention of corruption prescribes a series of limitations for public officials (including senior civil servants) after their mandate/term of office is concluded.

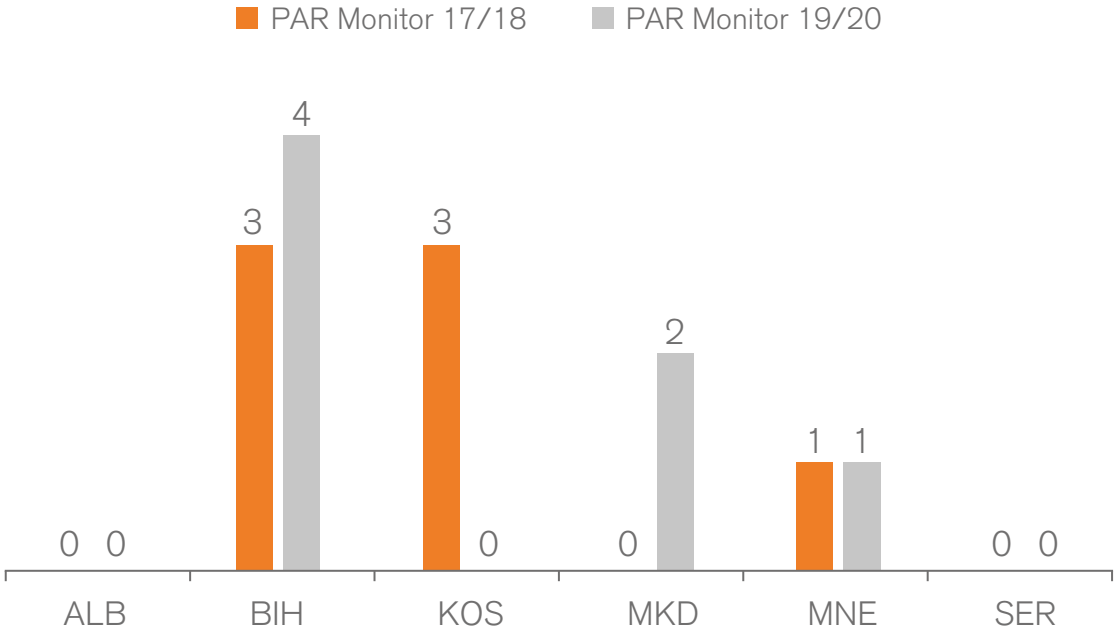
123 Article 78 of the Civil Service Law regulates the receipt of gifts and benefits for public servants, as well as a threshold for maximum value (up to 50€ from individual giver per year, or up to 100€ from multiple givers per year). The Law on prevention of corruption also has a number of articles on this matter and regulates the role of institutions (Agency) - (articles 16-22)

124 The Law on prevention of corruption regulates asset declaration in detail and includes an obligation of publishing this information online (Articles 23, 24, etc.)

125 The Law on prevention of corruption ("Službeni list Crne Gore", br. 053/14 od 19.12.2014, 042/17 od 30.06.2017) regulates the protection of whistle-blowers in the entire public sector (Article 48-70, Chapter Whistle-blowers). The Civil Service Law does not deal with this matter in more details, except for defining limiting the rights of civil servants and employees who report corruption as a severe breach of official duty (Article 95, point 16).

126 Such as regulation of fraud, deception and corruption offenses perpetrated by public officials, including, at a minimum: financial fraud against the state, acts of forgery/counterfeiting documents, active bribery, passive bribery, embezzlement, abuse of functions/power, trading in influence, illicit enrichment, money laundering, and other acts involving the proceeds of crime.

Indicator PSHRM_P7_I1: Effectiveness of measures for the promotion of integrity and prevention of corruption in the civil service



IV.6 RECOMMENDATIONS FOR PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

| Recommendation | Status | Comment |
|---|-----------------|--|
| Human Resource Management Information System must be updated regularly, its use obligatory for institutions and interoperability with payroll system enabled, as well as include data on all forms of temporary engagements in the civil service. | Initiated | Connection of HRMIS with the payroll system is in its final stages, but temporary engagements are still outside of its scope. |
| The Government should make the timely preparation and publishing of the annual Personnel Plans a priority — delays in the adoption or alignment of individual rulebooks on organisation and systematisation should not be used as an excuse to delay the publishing of the entire Personnel Plan. | No action taken | The situation has been further complicated by the late adoption of the 2021 annual budget, since the personnel plan is tied to its adoption and therefore unable to be adopted itself. |
| Personnel Plans should include data on planned and actual staff engaged outside of the scope of the Law on Civil Servants and Employees, such as temporary engagements as well as experts engaged through technical assistance projects. | No action taken | No progress in this area. |
| Personnel Plan and the HRMIS should include data on gender structure of civil servants and employees in each category and classification. | Initiated | While HRMIS does contain gender data, personnel plans still do not. |
| Civil service data contained in the Personnel Plan should be made available in one of the open data formats and published on the open data portal. | No action taken | Data is still not available in any open data format. |
| Annual report of the HRMA, as de facto annual civil service report, should be expanded, so as to include information and data on areas such as: career development, salaries/wages, corruption/integrity issues and measures, disciplinary procedures and decisions, as well as assessments of state of play in civil service, professionalisation, depoliticisation and outcomes of the implementation of the Law on Civil Servants and Employees. | No action taken | The format of the HRMA's report has stayed the same. |
| The number of temporary engagements for performing tasks characteristic of civil service should be limited by law, with the current temporary measure from the Plan for Optimisation of the Public Sector (fixed-term employees cannot be more numerous than 10% of the total number of employees) becoming permanent. | No action taken | There has been no change in the legislation regarding introduction of such a limit, nor in the strategic acts related to optimisation process. |

| | | |
|--|------------------------|---|
| <p>Transparent procedures and criteria should be adopted for recruitment of short-term staff outside of the scope of systematisations (ugovori o djelu) and temporary engagements of experts in the state administration (recruitments that are currently not done on the basis of the Law on Civil Servants and Employees).</p> | <p>No action taken</p> | <p>The performance audit report of the State audit institution published in 2020 on temporary engagements in the public sector indicated, among else, no procedures regulating the recruitment process of experts.</p> |
| <p>Duration of all forms of temporary engagement contracts should be unambiguously limited with clear and transparent criteria for possible renewal of such contacts after their expiry.</p> | <p>No action taken</p> | <p>The performance audit report of the State audit institution published in 2020 on temporary engagements in the public sector indicated, among else, the problem of using these contracts for performing core competencies of the administration and the practice of their prolongation.</p> |
| <p>The Law on Civil Servants and State Employees should clearly specify which criminal acts disqualify a candidate for recruitment, as the current formulation leaves space for discretionary decisions.</p> | <p>No action taken</p> | <p>The Law was not amended.</p> |
| <p>Transparency of the outcomes of the recruitment procedures should be ensured, so that decisions and reasoning of the ranking and selection of all participating candidates in all recruitment phases, as well as on the annulment of public competitions, should be made publicly available, with due respect for the protection of personal information.</p> | <p>Initiated</p> | <p>There has been progress compared to the last round of monitoring</p> |
| <p>The work of the Governmental Commission for Personnel and Administrative Issues must be made transparent and documentation about its work and sessions made available to public, particularly in the area of appointments and dismissals.</p> | <p>No action taken</p> | <p>There was no attempt to make the work of this or other three commissions of the Government more transparent.</p> |
| <p>The Law on Civil Servants and State Employees should be amended so as to prevent the current practice of prolonging the formal limits of acting managers' mandate by simple reappointment after the first contract expires. Additionally, appointment procedure for acting positions should be covered by the Law's sanction provisions</p> | <p>No action taken</p> | <p>The Law was not amended and the practice was not changed.</p> |
| <p>The Law on Wages should be amended in order to specify mutual exclusiveness of all types of supplement pay, as well as impose precise limitations on their amounts, as opposed to leaving the matter to be decided by the collective bargaining agreements.</p> | <p>No action taken</p> | <p>The Law was not amended.</p> |

Human Resource Management Information System should include data on all forms of temporary engagements in the civil service.

Personnel Plans should include data on planned and actual staff engaged outside of the scope of the Law on Civil Servants and Employees, such as temporary engagements as well as experts engaged through technical assistance projects.

Personnel Plan should include data on gender structure of civil servants and employees in each category and classification.

Civil service data contained in the Personnel Plan should be made available in one of the open data formats and published on the open data portal.

Annual report of the HRMA should be expanded to include information and data on areas such as: career development, salaries/wages, corruption/integrity issues and measures, disciplinary procedures and decisions, as well as assessments of state of play in civil service, professionalisation, depoliticisation and outcomes of the implementation of the Law on Civil Servants and Employees.

Transparent procedures and criteria should be adopted for recruitment of short-term staff outside of the scope of systematisations (ugovori o djelu) and temporary engagements of experts in the state administration

Duration of all forms of temporary engagement contracts should be unambiguously limited with clear and transparent criteria for possible renewal of such contacts after their expiry.

The Law on Civil Servants and State Employees should clearly specify which criminal acts disqualify a candidate for recruitment, as the current formulation leaves space for discretionary decisions.

Transparency of the outcomes of the recruitment procedures should be ensured, so that decisions and reasoning of the ranking and selection of all participating candidates in all recruitment phases, as well as on the annulment of public competitions, should be made publicly available, with due respect for the protection of personal information.

The work of the Governmental Commission for Personnel and Administrative Issues must be made transparent and documentation about its work and sessions made available to public, particularly in the area of appointments and dismissals.

The Law on Civil Servants and State Employees should be amended so as to prevent the current practice of prolonging the formal limits of acting managers' mandate by simple reappointment after the first contract expires. Additionally, appointment procedure for acting positions should be covered by the Law's sanction provisions.

The Law on Wages should be amended in order to specify mutual exclusiveness of all types of supplement pay, as well as impose precise limitations on their amounts, as opposed to leaving the matter to be decided by the collective bargaining agreements.

V.

ACCOUNTABILITY

V.1 WEBER INDICATORS USED IN ACCOUNTABILITY AND COUNTRY VALUES FOR MONTENEGRO



V.2 RESULTS IN BRIEF

In the area of accountability, as measured by WeBER, Montenegro is still well behind other countries in the region with the lowest overall scores for two indicators.

Civil society perception of the quality of legislation and practice of access to public information in Montenegro reveals considerable problems in this area.

Quality of FOI legislation is perceived as particularly poor, especially when compared to regional results. Montenegrin NGOs are the most critical of the exceptions to the public character of information in the region, both in how they are regulated in the law and applied in practice. Deadlines for answering a FOI request are most often broken in Montenegro, where NGOs also seem to be paying the most for accessing the information.

Situation is somewhat better when it comes to the format in which the answer is received, with most of NGOs agreeing it is provided in the requested format. Also, the principle that administration should not inquire into reasons for requests for information, seems to be applied the most consistently in Montenegro.

Responses of NGOs are also positive when it comes to how the authorities are dealing with releasing information marked as classified or containing personal data, though most of NGOs are suspecting foul play when only portions of classified materials are released.

NGOs in Montenegro were especially and consistently critical about the work of the Agency for Personal Data Protection and Free Access to Information, which is the supervisory institution for FOI whose work is assessed most poorly in the region. NGOs are especially critical of Agency not setting sufficiently high standards of the right to free access to information, as well as to the effectiveness of its soft measures and sanctions.

When it comes to proactive informing of the public, research revealed problems extending beyond non-compliance to legal requirements in this area. Information on lines of accountability of the institutions is lacking for the entire sample. Most of the sample institutions have sections containing relevant policy documents and legal acts, although they vary greatly in how much they make sure that the available documents are the latest versions. On the other hand, publishing of analytical materials is much scarcer, with the most notable lack of publishing of regulatory impact assessments by the ministries.

Annual reporting is regular and easily accessible, although there are significant exceptions in subordinate institutions. Budgetary information are usually not published on the websites, and even where they are, updates are not regularly made following budget amendments. Situation regarding availability and completeness of organigrams has improved considerably compared to the last round of monitoring.

There is a sharp contrast between ministries and subordinate institutions in the way the information on how they cooperate with civil society and other external stakeholders (including public consultation processes) is presented.

Regarding open data most of the observed institutions have not published any databases in machine-readable formats.

In general, most of the key documentation required for measuring this indicator has met the conditions of accessibility, but in measuring the degree of efforts of authorities to present their data and documents in a citizen-friendly way, little or no initiative has been registered.

V.3 STATE OF PLAY IN ACCOUNTABILITY

Due to the growing amount of information classified as secret by the authorities, European Commission expressed concerns in Montenegro 2020 Report, noting that revision of regulatory framework is necessary.¹²⁷ With Work Programme, the Government of Montenegro planned Draft on Amendments to the Law on Free Access to Information for IV quarter of 2019.¹²⁸ However, not only did it come to the expected improvement of the Law on Free Access to Information¹²⁹, but the Draft Law imposed additional restriction on access of information, primarily in imposing institute of misuse of the right of access to information.¹³⁰ Regarding the Draft Law, group of 44 NGOs submitted an open letter to the Government to give up on proposed changes of the Law on Free Access to Information.¹³¹ Meanwhile, on the parliamentary elections held in August 2020, it has come to the change of government, a group of NGOs submitted draft on amendments to the Law on Free Access to Information to Ministry of Public Administration.¹³²

Number of requests for free access to information in 2019 was 5,409, while the number of appeals was 3,531.¹³³ The shift was made in improving responsibility and transparency, considering that the number of request sent to authorities in 2020 was 4,805 (number of granted was 2,629 to 1,206 rejected), while the total number of received appeals by the Agency for Personal Data Protection and Free Access to Information was 3,000, while the decision was made in 4,328 appeals (3,304 upheld to 518 rejected).¹³⁴

Performing inspection surveillance over application of the Law on Free Access to Information in terms of developing and updating the Access to Information Guide, proactive publishing of information and delivery of acts and data necessary for running of information system for access to information and re-use, 64 inspection surveillance were performed, both the regular and the initiated surveillance, by the Agency for Personal Data Protection and Free Access to Information.¹³⁵

The research of Institute Alternative showed that only five ministries fulfilled obligation of publishing work programme in 2020 within a legal deadline, while only three published list of acts that will be on public

127 European Commission: Montenegro 2020 Report, available on: <https://bit.ly/2R3Wuc3>, p. 16.

128 Work Programme of the Government of Montenegro, available on: <https://bit.ly/3wAb77u>, p. 48.

129 Law on Free Access to Information (Official Gazette of Montenegro, No. 44/2012 and 30/2017)

130 Beside the misuse of the right of access to information, it is allowed that unlimited amount of information could be declared as secret imposing absolute restriction of access to information in intelligence and security sector, and also information exchanged in cooperative framework with international organisations and other countries. It is stipulated that other laws can impose restrictions which presents big problem, because it cannot be precisely known which information can be declared as secret, which presents derogation of international standards which stipulates that restrictions must be taxatively enumerated, and also concept of trade secret is not prescribed, which in practice is the most common reason for restriction of access to information, see more on: <https://institut-alternativa.org/pet-nvo-podnijelo-primjedbe-vlada-predlaze-zakon-o-skrivanju-informacija/> (checked on 07.04.2021)

131 See more on: <https://bit.ly/3cVJzS4> (checked on 07.04.2021)

132 See more on: <https://bit.ly/3wAbiQc> (checked on 07.04.2021)

133 European Commission: Montenegro 2020 Report, available on: <https://bit.ly/3rXxLmG>, p. 30.

134 Report on the state of personal data protection in Montenegro for 2020, Podgorica, March 2021, p. 70-77, available on: <https://bit.ly/3rX5Seq>

135 Ibid., p. 78-80.

discussions.¹³⁶ Regarding the Draft on Amendments to the Law on Free Access to Information, Ministry of Public Administration conducted public discussion, and considering the interest of civil sector for better normative text of the Law on Free Access to Information, Ministry of Public Administration proposed that after public discussion conduct additional consultations.¹³⁷ However, consultations were organized in the moment when the citizens of Montenegro were locked down because of the corona virus pandemic and large number of NGOs and the representatives of the media expressed dissatisfaction claiming that Ministry of Public Administration misused the institute of public consultations.¹³⁸

Montenegro participation within global initiative „Open Government Partnership“ , one of key obligation is access to information.¹³⁹ According to the initiative, Law on Free Access to Information and EU Directive on the repeated use of public sector information highlighting the need for the publication of data sets in machine readable and open format together with metadata¹⁴⁰, Ministry of Public Administration established Open data portal and there are currently 138 data sets published by 20 authorities.¹⁴¹

Regional Openness Index, created by ActionSEE, which measures degree of data openness for citizens, ranked Montenegro on second place with the score of 36.54 among six countries of the Western Balkan. Annual survey of the citizens of Western Balkans,¹⁴² conducted by the Council for Regional Cooperation, showed that Montenegro, accompanied by six states, on second place with the score of 2.8 on scale 1-5 measured by the time needed to get information from public sector (data which public authorities have, such as documents, registers, records, etc.).¹⁴³

136 See more on: <https://bit.ly/39PVD5i> (checked on 07.04.2021)

137 See more on: <https://bit.ly/2ReGhRz> (checked on 07.04.2021)

138 See more on: <https://bit.ly/3sY2bqa> (checked on 07.04.2021)

139 <https://www.otvorenauprava.me/en/what-is-ogp/>

140 Directive 2013/37 / EU amending Directive 2003/98 / EC

141 https://data.gov.me/domeni_podataka/index.php (checked on 07.04.2021)

142 Result is counted on a scale 0-100, <https://opennessindex.actionsee.org/open-data> (checked on 07.04.2021)

143 Balkan Barometer 2020: Public Opinion Survey, available on: <https://bit.ly/3mrkxgM> (checked on 07.04.2021)

V.4 WHAT DOES WEBER MONITOR AND HOW?

The SIGMA principle covering the right to access public information is the only principle presently monitored in the area of accountability, yet this principle looks at both the proactive and reactive sides of the issue.

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

This Principle bears utmost significance in increasing the transparency of administrations and holding them accountable by civil society and citizens, as well as in safeguarding the right-to-know by the general public as the precondition for better administration. The WeBER approach to the principle does not assess regulatory solutions embedded in free access to information acts but is based on the practice of reactive and proactive provision of information by administration bodies. On one hand, the approach considers the experience of members of civil society with enforcement of the legislation on access to public information, and on the other, it is based on direct analysis of the websites of administration bodies.

WeBER's monitoring is performed using two indicators. The first one focuses entirely on civil society's perception of the scope of the right to access public information and whether enforcement mechanisms enable civil society to exercise this right in a meaningful manner. To explore perceptions, a survey of civil society organisations in Western Balkan was implemented using an online surveying platform from the second half of June to the beginning of August 2020.¹⁴⁴ The uniform questionnaire with 28 questions was used to assess all Western Balkans administrations, ensuring an even approach in survey implementation. It was disseminated in local languages through the existing networks and platforms of civil society organisations with large contact databases and through centralised points of contact such as governmental offices in charge of cooperation with civil society. To ensure that the survey targeted as many organisations as possible in terms of types, geographical distributions, and activity areas, and hence contributed a representative sample, additional boosting was done where increases to overall responses were needed. Finally, a focus group with CSOs was organised to complement survey findings with qualitative data. Focus group results were not, however, used for point allocation for the indicator.

The second indicator focuses on proactive informing of the public by administration bodies, particularly by monitoring the comprehensiveness, timeliness, and clarity of the information disseminated through official websites. In total, 18 pieces of information were selected and assessed against two groups of criteria: 1) basic criteria, looking at the information's completeness, and whether it was up to date, and 2) advanced criteria, looking at the accessibility and citizen-friendliness of the information.¹⁴⁵ Information was gathered from the official websites of a sample of seven administration bodies consisting of three line ministries (a large, a medium, and a small ministry in terms of thematic scopes), a ministry with general planning and coordination functions, a government office with centre-of-government functions, a subordinate body to a minister/ministry, and a government office in charge of delivering services.

144 The survey of CSOs was administered through an anonymous, online questionnaire. The data collection method included CASI (computer-assisted self-interviewing). In Montenegro, the survey was conducted in the period from 22 June to 27 July 2020. The data collection method included CASI (computer-assisted self-interviewing). The survey sample was N=54.

145 Exceptions being information on accountability lines within administration bodies, which was assessed only against the first group of criteria, and information available in open data format, which was assessed separately.

V.5 WEBER MONITORING RESULTS

PRINCIPLE 2: THE RIGHT TO ACCESS PUBLIC INFORMATION IS ENACTED IN LEGISLATION AND CONSISTENTLY APPLIED IN PRACTICE

WeBER indicator ACC P2 I1: Civil society perception of the quality of legislation and practice of access to public information

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| CSOs consider that the information recorded and documented by public authorities is sufficient for the proper application of the right to access public information | 0/4 | 0/4 |
| CSOs consider exceptions to the presumption of public character of information to be adequately defined | 0/2 | 0/2 |
| CSOs consider exceptions to the presumption of public character of information to be adequately applied | 0/4 | 0/4 |
| CSOs confirm that information is provided in the requested format | 0/2 | 1/2 |
| CSOs confirm that information is provided within prescribed deadlines | 0/2 | 0/2 |
| CSOs confirm that information is provided free of charge | 1/2 | 1/2 |
| CSOs confirm that the person requesting access is not obliged to provide reasons for requests for public information | 1/2 | 1/2 |
| CSOs confirm that in practice the non-classified portions of otherwise classified materials are released | 0/4 | 0/4 |
| CSOs consider that requested information is released without portions containing personal data | 1/2 | 1/2 |
| CSOs consider that when only portions of classified materials are released, it is not done to mislead the requesting person with only bits of information | 0/2 | 0/2 |
| CSOs consider that the designated supervisory body has, through its practice, set sufficiently high standards of the right to access public information | 0/4 | 0/4 |
| CSOs consider the soft measures issued by the supervisory authority to public authorities to be effective | 0/2 | 0/2 |
| CSOs consider that the supervisory authority's power to impose sanctions leads to sufficiently grave consequences for the responsible persons in the noncompliant authority | 0/2 | 0/2 |
| Total score | 3/34 | 4/34 |

The first question in the survey for CSOs in Montenegro regarding free access to information attempted to gather their perception of the basic precondition for exercising this right - is amount of information produced and recorded by public authorities sufficient for proper use of the right to access public information. As a rule, FOI request can only be sent to ask for information which already exists in some recorded format (written, audio, video, etc.). Hence, if certain information is not recorded, the right to access that information cannot be fulfilled.¹⁴⁶ In Montenegro, only 14% of surveyed CSOs agree that the public authorities do record sufficient information to enable the public to fulfil the right to free access to information. The impression of CSOs is that the rule on authorities rejecting a FOI request that entails creating a new information is overzealously used, even if the requested information is simply a compilation of data that is already produced.

146 Article 29, Law on Free Access to Information, Official Gazette of Montenegro, No. 044/12, 030/17

Asked whether they think that the exceptions to the public character of information are adequate, as defined in the Law on Free Access to Information, only 10% of surveyed CSOs in Montenegro answered positively, while just 8% claim that these exceptions (such as they are) are adequately applied in practice.

Situation is a bit better when it comes to format of the answer to the FOI request. 30% of surveyed CSOs that had exercised their right to information agreed that information is provided in the requested format.

Survey shows that CSOs in Montenegro are waiting for responses to FOI requests the longest in the region. Only a fifth of surveyed CSOs agrees that the information is provided within prescribed deadlines, while 47% of surveyed CSOs that had exercised their right to information agreed that the information is often or always provided free of charge.

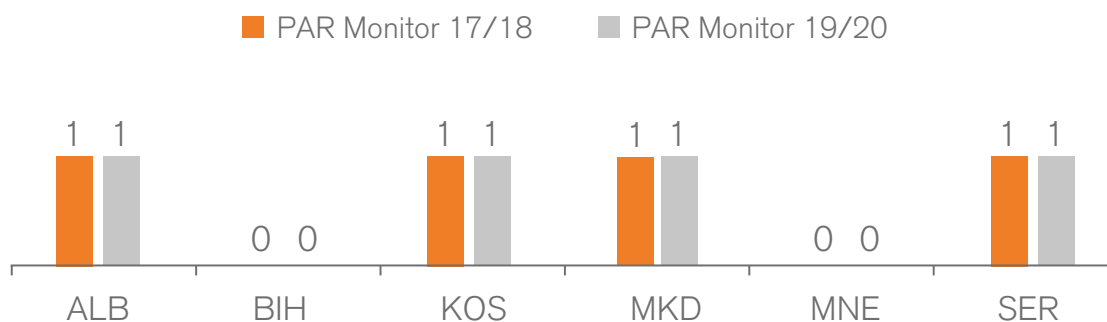
Just 14% of CSOs in Montenegro confirm that, in practice, the non-classified portions of otherwise classified materials are released when requesting information. When asked whether they think that when only portions of classified materials are released, it is not done to mislead the person requesting the information, CSOs in Montenegro are most suspect of foul play on the part of authorities, with only 11,76% of CSOs confirming the statement.

CSOs in Montenegro were especially and consistently critical about the work of the Agency for Personal Data Protection and Free Access to Information. Only 3% of CSOs agreed that the Agency has, through its practice, set sufficiently high standards of the right to free access to information. This sum is lower from the already quite low sum in the last round of PAR Monitor (2017/2018) - 9,68%. No CSOs opted for the “strongly agree” answer to this question.

Only 3% of CSOs consider the soft measures issued by the Agency as the supervisory authority to be effective and the same percentage of CSOs considers that the supervisory authority’s power to impose sanctions leads to sufficiently grave consequences for the responsible persons in the noncompliant authorities.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator ACC_P2_I1: Civil society perception of the quality of legislation and practice of access to public information



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

WeBER indicator ACC P2 I2: Proactive informing of the public by public authorities

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|------------------|------------------|
| Websites of public authorities contain complete and up to date information on scope of work | 0/4 | 2/4 |
| Websites of public authorities contain easily accessible and citizen-friendly information on scope of work | 0/2 | 0/2 |
| Websites of public authorities contain complete and up to date information on accountability (who they are responsible to) | 0/4 | 0/4 |
| Websites of public authorities contain complete and up to date information on relevant policy documents and legal acts | 2/4 | 2/4 |
| Websites of public authorities contain accessible and citizen friendly information on relevant policy documents and legal acts | 0/2 | 0/2 |
| Websites of public authorities contain complete and up to date information on policy papers, studies and analyses relevant to policies under competence | 0/4 | 0/4 |
| Websites of public authorities contain accessible and citizen-friendly information on policy papers, studies and analyses relevant to policies under competence | 0/2 | 0/2 |
| Websites of public authorities contain complete and up to date annual reports | 2/4 | 2/4 |
| Websites of public authorities contain accessible and citizen friendly annual reports | 0/2 | 0/2 |
| Websites of public authorities contain complete and up to date information on the institution's budget | 0/4 | 0/4 |
| Websites of public authorities contain accessible and citizen-friendly information on the institution's budget | 0/2 | 0/2 |
| Websites of public authorities contain complete and up to date contact information (including e-mail addresses) | 4/4 | 4/4 |
| Websites of public authorities contain accessible and citizen friendly contact information (including e-mail addresses) | 2/2 | 2/2 |
| Websites of public authorities contain complete and up to date organisational charts which include entire organisational structure | 2/4 | 0/4 |
| Websites of public authorities contain accessible and citizen friendly organisational charts which include entire organisational structure | 2/2 | 0/2 |
| Websites of public authorities contain complete and up to date information on contact points for cooperation with civil society and other stakeholders, including public consultation processes | 0/4 | 0/4 |
| Websites of public authorities contain accessible and citizen friendly information on ways in which they cooperate with civil society and other external stakeholders, including public consultation processes | 0/2 | 0/2 |
| Public authorities proactively pursue open data policy | 0/4 | 0/4 |
| Total score | 3/34 | 4/34 |

The sample of institutions that were examined consisted of: Ministry of Education, Ministry of Defense, Ministry of Sport and Youth, Ministry of Public Administration, General Secretariat of the Government, Environment Protection Agency, Tax Administration.

In general, most of the key documentation required for measuring this indicator has met the conditions of accessibility, being less than three clicks away from the homepage of the institution. This is due to the template structure of the governmental websites and a multitude of options in the main navigation as well as additional banners on the homepage, which can be confusing in their own regard. In measuring the degree of efforts of authorities to present their data and documents in a citizen-friendly way, little or no initiative has been registered. The sampled institutions do not strive to provide documents in a manner that would be more clear or understandable to ordinary citizens, in either the way the documents are presented on their websites, or the way the documents themselves are written. There is a sharp contrast between ministries and subordinate institutions in how much information is provided to citizens, and in which manner.

In explaining their scope of work, institutions mainly satisfy the criteria of completeness. However, there are no traces of citizen-friendly definitions. None of the institutions make no effort to use formulations other than those from the legal acts and formal definitions of their work from bylaws copied in verbatim.

Information on lines of accountability of the institutions is taken for granted in Montenegro, as if there is no need to explain to whom the institution is responsible to directly. This information is lacking for the entire sample as none of the state authorities have information on accountability.

As part of the standard template of the websites of institutions, most of the sample institutions have sections containing relevant policy documents and legal acts, entitled "Library", although they vary greatly in how much they make sure that the available documents are the latest versions, as several cases of outdated legal acts have been found. The sections containing the policy documents and legal acts are always in the main navigations of the websites, and therefore one click away from the main page. Thus, all of the institutions have earned points (except for the Forest Administration, whose section is accessible, but does not contain any document). None of the institutions have earned points for citizen-friendly dimension, as no effort has been made to explain the contents of the "Library" sections, except for the titles of the acts.

On the other hand, publishing of analytical materials is much scarcer, with the most notable lack of publishing of regulatory impact assessments by the ministries. Annual reporting of the institutions is mostly regular and easily accessible, there are exceptions in the subordinate institutions, which fail to publish annual information on their work and results or even re-publish the reports of the Ministries that they are a part of.

Except for the Ministry of Education and Ministry of Public Administration, no other institution in the sample has any information about its budget published on its website.

In each of the sample institution's websites, the contact data is present (address, telephone and email) and their validity was confirmed.¹⁴⁷ Also, since all institutions are following the same template for the website, they all have the "Contact" field banner in the main navigation on the homepage, thus earning points for accessibility.

Organigrams presenting the structure of the institutions are in most cases available, and usually updated to the latest version of the institution's rulebook on organisation and systematisation. In most of the cases, they are easy to find, being more than three clicks away from the homepage and usually available for download in some of the common formats.

Only the Ministries in the sample have the required data on ways in which they cooperate with civil society and other external stakeholders, including public consultation processes. They are usually under the sections "Cooperation with CSOs" that entail data on calls for participation in working groups or similar bodies (also including contacts of persons for cooperation with NGOs) or in the "Public Consultations" section, which contains

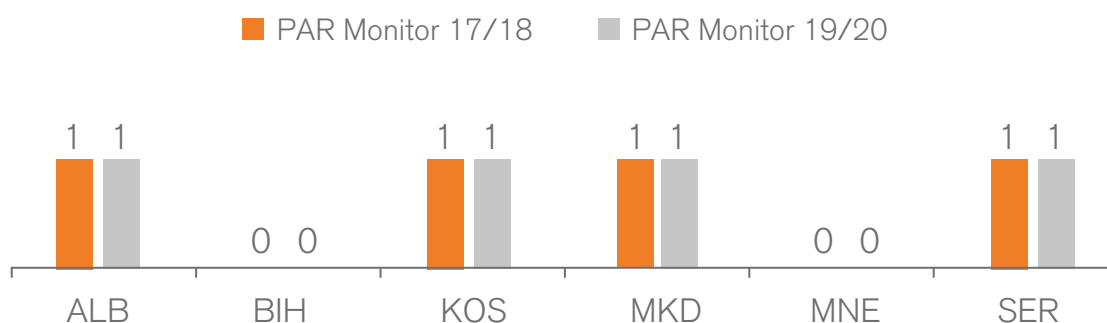
147 Researchers conducted test phone calls in each of the sample institutions to check the validity of the data presented on the website.

calls for public to provide comments regarding laws or strategic acts. Other institutions from the sample that are not ministries do not have these sections. None of the institutions in the sample has the information which explains briefly and simply with which external stakeholders the institution cooperates and in which fields. The closest thing is the FOI guide, but it only outlines the data of the institution that can be requested, contact points as well as the procedure for requesting information. Institutions from the sample also have website sections entitled “cooperation with NGOs” but these only contain specific calls for applications for membership in working bodies.

When it comes to open data, even the somewhat low threshold for awarding points set in the PAR Monitor for this area¹⁴⁸ was not satisfied. Out of the observed institutions, only the Ministry of Education¹⁴⁹ and Ministry of Public administration¹⁵⁰ have some data in open format.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator ACC_P2_I2: Proactive informing of the public, by public authorities



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

148 To award points, the minimum requirements in this element of the PAR Monitor were: Publishing online at least one comprehensive dataset pertaining to the competence of the institution, in an open format; Publishing at least one document relevant from the FOI aspect in an open format (detailed contact list, employees lists, state officers and data on their salaries, rulebook on internal organization, public procurement plan, financial plan).

149 It has 19 datasets published on the open data portal: <https://www.data.gov.me/organizacija.php?id=65>

150 It has 6 datasets on the open data portal: <https://www.data.gov.me/organizacija.php?id=53>.

V.6 RECOMMENDATIONS FOR ACCOUNTABILITY

| Recommendation | Status | Comment |
|---|-----------------|---|
| New changes of the FOI legislation must remedy the harm done by the 2017 amendments prepared by the MPs, revoking each of the changes they made - narrowing the scope of the law, abolishing certain competencies of the Agency for Personal Data Protection and Free Access to Information, and expansion of restrictions to accessing information. | No action taken | The Law has not been amended in the monitoring period. |
| Exceptions to the public character of information in the Law on FOI are vague and allow for abuse by the public authorities, especially in the ambiguous formulations of "trade and tax" secrets, and should be aligned with the best standards of transparency of public administration. | No action taken | The Law has not been amended in the monitoring period. |
| Agency for Personal Data Protection and Free Access to Information needs to address the perception of its work, which is overwhelmingly negative and the lowest in the region in many regards, being viewed as slow, ineffective and its work insufficient to achieve standards in protecting the right to free access to information. | No action taken | No progress in the perception of Agency's work has been registered. |
| Annual reports of institutions should contain citizen-friendly summaries of their work, written in a jargon-free manner devoid of bureaucratic language, in order to explain their work and achievements to the public. | No action taken | The form and style of the reports has remained the same. |
| Ministry of Finance should prepare guidelines for the institutions on how their budgets must be presented on their websites. Presentation of the institutions' budget should become a part of official websites, however, not in simply publishing excerpts from the annual budget law, but striving to provide the citizens with comprehensive data on the planned and spent funds and any particular trait of that specific institution's spending. | No action taken | No guidelines or similar effort has been undertaken by the Ministry of finance and the situation has not changed at the level of individual ministries. |
| Frequent changes of institutions' rulebooks on organisation and systematisation must be timely published on the official websites and changes reflected in the updated of organigrams. | Initiated | A more timely publishing of up to date versions of these documents has been registered but not on a systemic level. |
| Institutions should proactively publish their open data registries on the central open data portal, but also include hyperlinks leading to it on their own websites. | No action taken | The open data portal remains underused by the authorities and the citizens alike. |

New changes of the FOI legislation must remedy the harm done by the 2017 amendments prepared by the MPs, revoking each of the changes they made - narrowing the scope of the law, abolishing certain competencies of the Agency for Personal Data Protection and Free Access to Information, and expansion of restrictions to accessing information.

Exceptions to the public character of information in the Law on FOI are vague and allow for abuse by the public authorities, especially in the ambiguous formulations of “trade and tax” secrets, and should be aligned with the best standards of transparency of public administration.

Agency for Personal Data Protection and Free Access to Information needs to address the perception of its work, which is overwhelmingly negative and the lowest in the region in many regards, being viewed as slow, ineffective and its work insufficient to achieve standards in protecting the right to free access to information.

Annual reports of institutions should contain citizen-friendly summaries of their work, written in a jargon-free manner devoid of bureaucratic language, in order to explain their work and achievements to the public.

Ministry of Finance should prepare guidelines for the institutions on how their budgets must be presented on their websites. Presentation of the institutions’ budget should become a part of official websites, however, not in simply publishing excerpts from the annual budget law, but striving to provide the citizens with comprehensive data on the planned and spent funds and any particular trait of that specific institution’s spending.

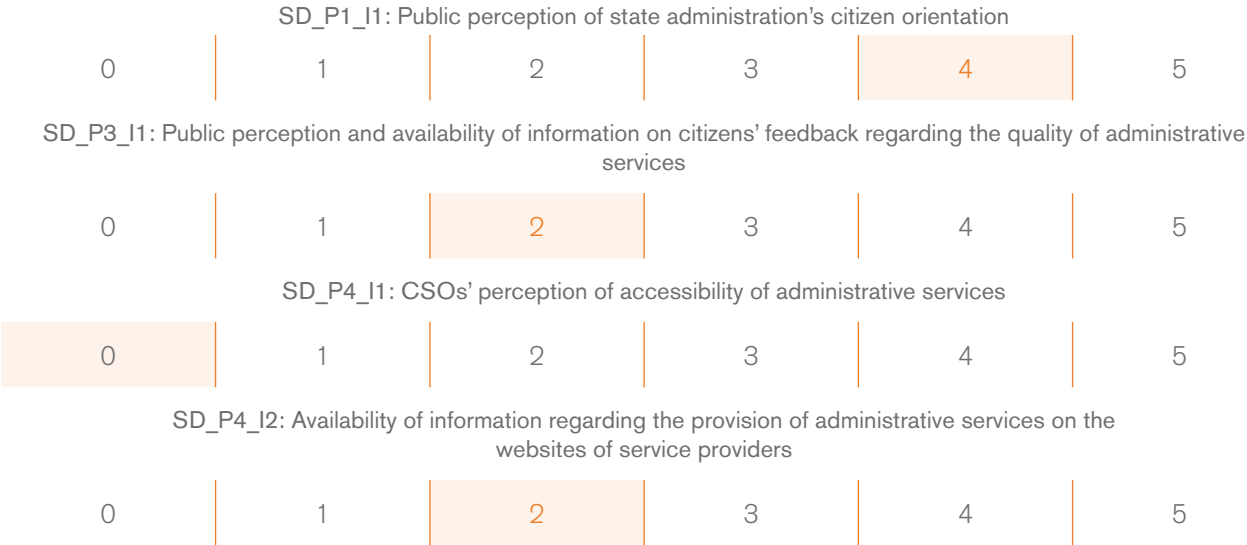
Frequent changes of institutions’ rulebooks on organisation and systematisation must be timely published on the official websites and changes reflected in the updated of organigrams.

Institutions should proactively publish their open data registries on the central open data portal, but also include hyperlinks leading to it on their own websites.

M.

**SERVICE
DELIVERY**

VI.1 WEBER INDICATORS USED IN THE SERVICE DELIVERY AND COUNTRY VALUES FOR MONTENEGRO



VI.2 RESULTS IN BRIEF

Some of the results in Service delivery component are somewhat better in this round of monitoring, as the citizens appear to be more informed about the existence of e-services and have more experience of use, likely caused by the fact that the survey was done in the midst of COVID19 measures that restricted access to administrative services in the traditional way in many cases. Also, incremental progress in other dimensions such as citizens' perception of governments efforts in simplification of procedures and digitalisation was registered.

There has been progress in the percentage of citizens who are aware of feedback opportunities for the administrative services. Also, the awareness of the efforts of civil society in monitoring of these services has doubled since the last round, with most of citizens claiming that such activities have resulted in improvement of administrative services.

Out of observed administrative services, only the Tax Administration has provided at least basic information about user feedback, as it had contracted an external agency to conduct a public opinion survey about its work, including feedback on various aspects of the services it provides.

When it comes to accessibility of administrative services for persons with disabilities and other vulnerable groups of population, results of CSO perception in the entire region show an extremely low level of satisfaction with the current state of affairs.

Websites of administrative service providers mostly do not provide basic procedural information on how to access the services, with Tax Administration as a positive exemption.

Regarding presentation of the costs, out of observed service providers, only the Ministry of Interior is transparent about the costs of its services. This is particularly problematic in the case of Tax Administration, which advertises the use of its e-portal for companies but fails to mention that a precondition for using it is the digital certificate provided at a considerable price.

VI.3 STATE OF PLAY IN SERVICE DELIVERY

Improved efficiency, effectiveness and citizen's satisfaction regarding the quality of services, provided interoperability of registers and availability of data for users, established eGovernment (eUprava) portal as a unique point of access to electronic services and improved user satisfaction - are objectives of Public Administration Reform Strategy of Montenegro when it comes to the Service Delivery area.

European Commission's 2020 Report assessed Montenegro as moderately prepared on the reform of its public administration. When it comes to service delivery, report says that Montenegro adopted a national interoperability framework in line with the EU interoperability framework and that law on electronic government and amendments to the law on electronic identification and electronic signature were also adopted during the reporting period.¹⁵¹

The Ministry of Public Administration, Digital Society and Media, which co-ordinates public service delivery area within public administration reform (PAR), in its latest draft report for 2020 on implementation of PAR Strategy states that all the activities implemented during previous period resulted in the rise of citizen's satisfaction with administrative services during the Covid 19.

Draft Report also noted a positive trend in relation to the number of requests for services submitted by citizens and businesses, which increased by 43.71% (from 1579 in 2019 to 2259 in 2020) and that procedures for obtaining the requested document electronically through eGovernment have become easier (82.67% of eGovernment survey participants are satisfied). It is also stated that activities on the implementation of interoperability of registers, ie electronic data exchange have been successfully completed, that 8 key registers are connected to the system and that currently eGovernment portal provides 596 services from the jurisdiction of 50 institutions.

On the other hand, when we take a look into citizen's (dis)satisfaction with regard to the public administration services, the percentage of those who gave negative evaluation rose in 2019 (52%) comparing to the results in 2017 (44%).¹⁵² Regarding the e-services portal (eGovernment), the share of citizens who are not aware of the existence of the portal is declining from year to year, alongside with an increase in the share of those reporting that they are aware of the portal but have no experience using it. At the same time, the survey showed that only 7% of citizens of Montenegro used the portal. The share of citizens using the portal remained almost constant over the years: 6% in 2017, 6% in 2018, 7% in 2019 while there is no available data for 2020.

The SIGMA's Monitoring Report for Montenegro from 2019¹⁵³ confirmed modest progress when it comes to service delivery area. Although the policy framework for service delivery, as well as administrative simplification is in place, the same cannot be said for the implementation progress. In the same report it is stated that even the most basic services require several institutional contacts, are time-consuming and that beside tax-related services for business – other administrative services are still mainly available through traditional channels.

These assessments were confirmed, and especially surfaced during the ongoing Covid 19 epidemic, when first cases of infection appeared in May 2020 in Montenegro. There were noticed shortcomings in the functioning of public administration and backslide on previously achieved progress regarding transparency. In May 2020 the former Minister of Public Administration called on citizens to postpone all the requests they may have to submit to the public administration, which are not urgent and to use electronic services available at eUprava portal and other portals.¹⁵⁴ On the other hand, there was no large number of services which citizens could use from their homes. Institute Alternative warned back then that unless citizens are applying for a student loan or for a postgraduate internship programme, the outdated eGovernment portal cannot help them much and at some point they will have to leave their homes in order to visit counters of competent authorities.

151 Montenegro 2020 Report, European Commission, Brussels, 6 October 2020, page 18

152 Data from the survey conducted by Ipsos Strategic Marketing for the purposes of IA 01-09 September 2019

153 "Monitoring Report: The Principles of Public Administration", SIGMA, May 2019.

154 Suzana Pribilović – "Ne rizikujte zdravlje, koristite eUpravu", available at (MNE): <https://www.youtube.com/watch?v=lu9C9RNkqKw>

For example, if someone needed to take remittances for the calculation of salary compensation during maternity leave in the period of curfew, they had to do it in person. Portal eHealth only replaced the unnecessary time they would spend going the Health Center in order to schedule an appointment. Having in mind mentioned, we said that electronic scheduling of appointments in order to provide a certain service in person is a illustration of the "digitalisation" of our administration and that the number of electronic services is negligible. Covid 19 showed us results of decades of passiveness and lack of commitment to the administration reform and administration modernization which could be more bearable and easier in these, extraordinary circumstances.

This is also stated in the Center for Democratic Transition's report, which stated that the increase in the number of electronic services is not followed with their practical use by citizens.¹⁵⁵ It is assessed that the dominant number of electronic services are informative ones, and there are a small number of services that citizens can use completely electronically. Additionally, high cost of obtaining an electronic signature is recognized one of the challenges and reason of limited access to eServices.¹⁵⁶

On the other hand, this period of coronavirus crisis showed also that it is possible to abandon old patterns of behaviour and reconsider some practices. The Health Insurance Fund claims that avoiding appointments and physical visits reduced tens of thousands of contacts, which were shown to be obviously unnecessary as we saw that we can function without them. During previous period, Health Insurance Fund of Montenegro, with its project "Electronic Services for Citizens (eHealth)" won prize at the first competition for public administration in the Western Balkans organized by ReSPA and OECD/SIGMA, aiming to stimulate innovation and healthy competitiveness among public institutions in Western Balkans.¹⁵⁷

As for the further development in the area of service delivery, draft report on conducting Public Administration Reform Strategy for 2020 says that 75% sub-activities are implemented in the area of service delivery. Some of the recommendations stated in this report regarding service delivery are to establish regular measurement of customer satisfaction with provided services, to establish ePayment and identification systems, creating a Catalogue of Public Services provided by authorities at local and central level, connecting the eGovernment portal with systems for electronic payment and electronic identification, adopting the practice that PR services in their future announcements must mention the electronic services with the benefits of their use, establishing the obligation of institution to provide users with electronic documents (licenses, certificates, permits, etc) through eGovernment portal.

155 "Reforma javne uprave: Kako mora ali ne i kako treba", Centar za demokratsku tranziciju, 2020. godine

156 "Monitoring Report: The Principles of Public Administration", SIGMA, May 2019.

157 "Crnogorske institucije osvojile tri nagrade na prvom takmicenju javnih uprava Zapadnog Balkana", available at (MNE): <https://mju.gov.me/vijesti/235211/Crnogorske-institucije-osvojile-tri-nagrade-na-prvom-takmicenju-javnih-uprava-Zapadnog-Balkana.html>

VI.4 WHAT DOES WEBER MONITOR AND HOW?

Under the Service Delivery area of PAR, three SIGMA Principles are monitored.

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

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

Principle 4: The accessibility of public services is ensured.

From the perspective of civil society and the wider public, these principles bear the most relevance in their addressing the outward-facing aspects of administration that are crucial for the daily provision of administrative services and contact with the administration. In this sense, these are the principles most relevant to the quality of everyday life of citizens.

The approach to monitoring these principles relies, firstly, on public perception of service delivery policy, including how receptive administrations are for redesigning administrative services based on citizen feedback. This is complemented with civil society's perception about distinct aspects of service delivery. Moreover, approached to the selected principles go beyond mere perceptions, exploring aspects of existence, online availability, and the accessibility of information administrations provide on services.

Four indicators were used, two fully measured with perception data (perceptions from civil society and the public) and two by using a combination of perception and publicly available data. The public perception survey employed three-stage probability sampling targeting the public. It focused on citizen-oriented service delivery in practice, covering various aspects of awareness, efficiency, digitalisation, and feedback mechanisms.¹⁵⁸ Since public perception survey was implemented during the COVID19 pandemic, citizens were also asked additional questions on how interested they were to explore more about electronic services since the outbreak and how frequently they have used them during the pandemic. Perception data from these questions were not used for measuring indicator values.

In the measurement of the accessibility of administrative services for vulnerable groups and in remote areas, data from a survey of civil society and a focus group with selected CSOs were used,¹⁵⁹ the latter for complementing the survey data with qualitative findings. The existence of feedback mechanisms was explored by combining public perception data and online data for a sample of five services.¹⁶⁰ Finally, the websites of providers of the same sampled services were analysed to collect information on their accessibility and prices.

158 Perceptions are explored using a survey targeting the public (aged 18 and older) in the Western Balkans. The public perception survey employed a multi-stage probability sampling and was administered combining computer-assisted web and telephone interviewing (CAWI, and CATI), using a standardized questionnaire through omnibus surveys in the Western Balkans during 5 May - 30 May 2020. For Montenegro, the margin of error for the total sample of 1005 citizens is $\pm 3.15\%$, at the 95% confidence level.

159 The survey of CSOs was administered through an anonymous, online questionnaire. In Montenegro, the survey was conducted in the period from 22 June to 27 July 2020. The data collection method included CASI (computer-assisted self-interviewing). The survey sample was N=54.

160 The five services included were: 1) property registration, 2) company (business) registration 3) vehicle registration 4) the issuing of personal documents: passports and ID cards and 5) value added tax (VAT) declaration and payment for companies.

VI.5 WEBER MONITORING RESULTS

PRINCIPLE 1: POLICY FOR CITIZEN-ORIENTED STATE ADMINISTRATION IS IN PLACE AND APPLIED

WeBER indicator SD_P1_I1: Public perception of state administration's citizen orientation

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|--|---------------------|---------------------|
| Citizens are aware of government administrative simplification initiatives or projects | 1/2 | 1/2 |
| Citizens confirm that administrative simplification initiatives or projects of the government have improved service delivery | 4/4 | 4/4 |
| Citizens confirm that dealing with the administration has become easier | 2/4 | 2/4 |
| Citizens confirm that time needed to obtain administrative services has decreased | 2/4 | 2/4 |
| Citizens consider that administration is moving towards digital government | 2/2 | 2/2 |
| Citizens are aware of the availability of e-services | 1/2 | 1/2 |
| Citizens are knowledgeable about ways on how to use e-services | 2/2 | 2/2 |
| Citizens use e-services | 2/4 | 0/4 |
| Citizens consider e-services to be user-friendly | 2/2 | 2/2 |
| Citizens confirm that the administration seeks feedback from them on how administrative services can be improved | 1/2 | 1/2 |
| Citizens confirm that the administration uses their feedback on how administrative services can be improved | 4/4 | 4/4 |
| Total score | 23/32 | 21/32 |
| Indicator value (scale 0-5)¹⁶¹ | 4 | 3 |

This indicator measures public perception about the implementation of the citizen-oriented service delivery in practice, covering various aspects of awareness, efficiency, digitalization and feedback mechanisms, based on the results of the public opinion survey. The results are a bit better in this round of monitoring, as the citizens appear to be more informed about the existence of e-services and more experience of use, likely caused by the fact that the survey was done in the midst of COVID19 measures that restricted access to administrative services in the traditional way in many cases. Also, incremental progress in other dimensions such as citizens' perception of governments efforts in simplification of procedures and digitalisation was registered.

The survey shows that over a half of Montenegrin citizens (55%) are aware that there have been efforts or initiatives by the government to make administrative procedures simpler for citizens and businesses in the past two years. Out of that percentage, an overwhelming majority (88% of citizens that are aware of government administrative simplification initiatives) think that such have led to an improved service delivery in the past two years.

However, the percentage of citizens who think that dealing with the administration has actually become easier in the past two years is 55% which is somewhat lower than the regional average (57%).

Majority of respondents in Montenegro (58%) think that the time needed to obtain administrative services has decreased in the past two years.

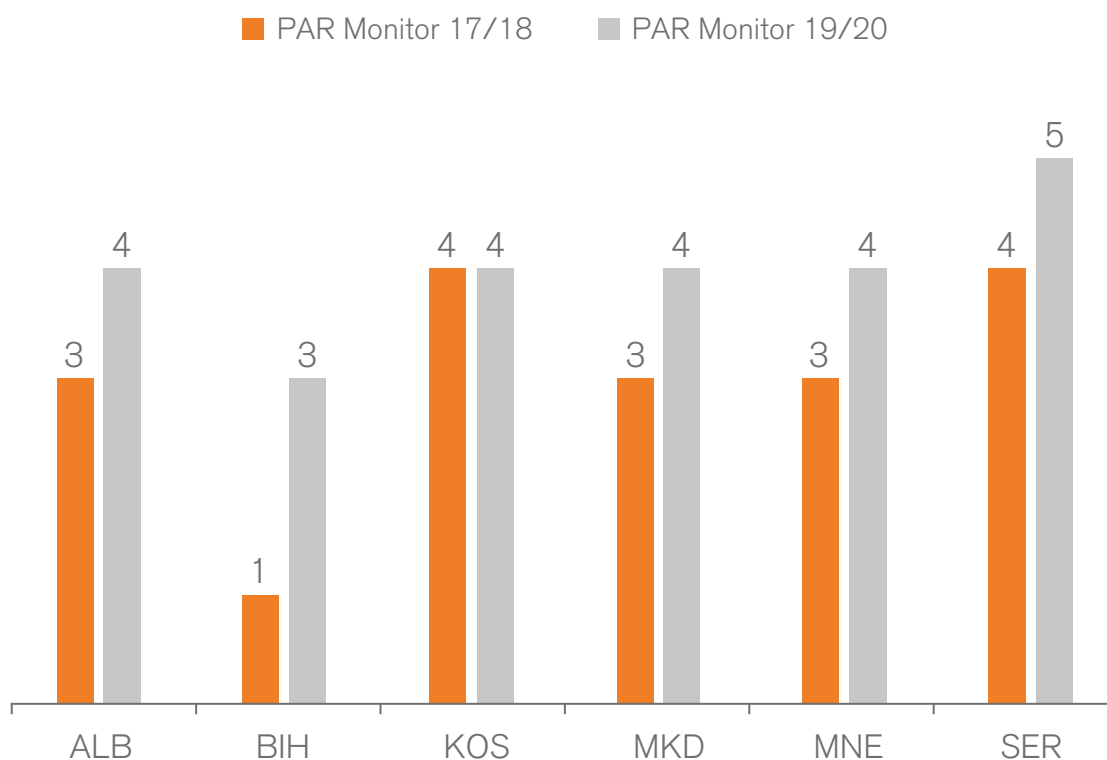
161 Conversion of points: 0-5 points = 0; 6-11 points = 1; 12-17 points = 2; 18-22 points = 3; 23-27 points = 4; 28-32 points = 5.

Majority of citizens (70%) think that the government has increasingly been moving towards digitalisation in the past two years. Majority of the citizens, 58% of Montenegrin citizens are aware that the e-services are offered in Montenegro. Out of this percentage, 78% confirmed that they are informed on how to use them. Out of those that have used e-services, most agree that they are easy to use (85%)

The percentage of citizens who confirm that the administration has asked for citizens' proposals on how to improve administrative services in the past two years is 58%. Most of those (82%) confirm that the administration seeks feedback report that the Government has used such proposals to improve the services.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator SD_P1_I1: Public perception of state administration's citizen orientation



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

PRINCIPLE 3: MECHANISMS FOR ENSURING THE QUALITY OF PUBLIC SERVICES ARE IN PLACE

WeBER indicator SD_P3_I1: Public perception and availability of information on citizens' feedback regarding the quality of administrative services

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| Citizens consider they have the possibility to provide feedback on the quality of administrative services | 2/2 | 1/2 |
| Citizens perceive feedback mechanisms as easy to use | 2/4 | 4/4 |
| Citizens perceive themselves or civil society as involved in monitoring and assessment of administrative services | 2/4 | 0/4 |
| Citizens perceive that administrative services are improved as a result of monitoring and assessment by citizens | 4/4 | 4/4 |
| Basic information regarding citizens' feedback on administrative services is publicly available | 0/4 | 0/4 |
| Advanced information regarding citizens' feedback on administrative services is publicly available | 0/2 | 0/2 |
| Total | 10/20 | 9/20 |
| Indicator value (scale 0-5)¹⁶² | 2 | 2 |

This indicator measures public perception towards the awareness, practice and usefulness of feedback mechanisms for administrative services. It also analyses whether and to what extent the data and information regarding the citizens' feedback to the quality of administrative services is publicly available. There has been progress in the percentage of citizens who are aware of feedback opportunities for the administrative services. Also, the awareness of the efforts of civil society in monitoring of these services has doubled since the last round, while the other dimensions of this indicator remain almost unchanged.

Biggest change since the last round of monitoring is the percentage of citizens who state that they have the opportunity to give an opinion about the services they receive from the administration - now its 62% while in the first round it was just a third of the population (31.3%). 44% of them state that the feedback mechanisms are easy to use, which is somewhat below the regional average (47%). Another jump in the results is regarding the awareness of the civil society's involvement in the monitoring and assessment of administrative services: from just about one quarter of the population (26.2%) in the last round, now it is 52%, higher than the regional average which is 42%. Most of them (80%) think that such activities have resulted in improvement of administrative services.

Out of the observed services¹⁶³, there is some basic information about user feedback only for those provided by the Tax Administration. It had contracted an external polling agency to conduct a public opinion survey among the citizens on the work of Tax Administration, that includes feedback on various aspects of the services it provides.¹⁶⁴ When it comes to more advanced feedback data on these services, such as information from at least two different credible sources, segregated data based on gender, disability or other relevant factors, cross-analyses of data from various sources, research came up with no results.

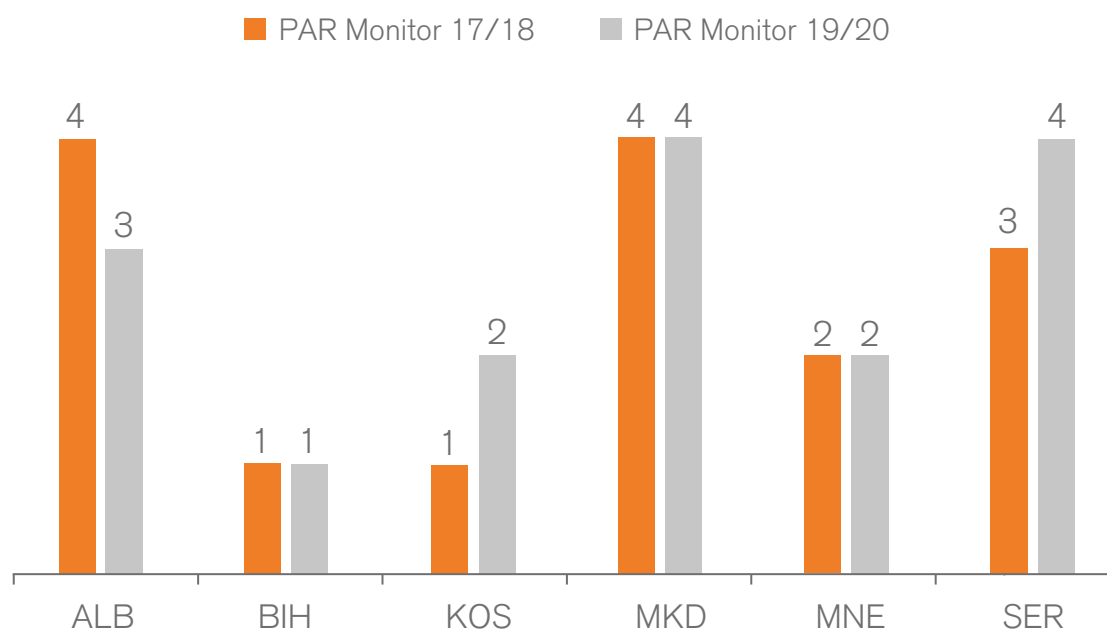
162 Conversion of points: 0-4 points = 0; 5-8 points = 1; 9-11 points = 2; 12-14 points = 3; 15-17 points = 4; 18-20 points = 5.

163 Observed services, in accordance with the methodology, were: 1) Property registration, provided by the Property Administration, 2) Company (business) registration, provided by the Tax Administration's Central Registry of the Business Entities, 3) Vehicle registration, provided by the Ministry of Interior, 4) Issuing of personal documents, passports and ID cards, provided by the Ministry of Interior, and 5) Declaration of value added tax (VAT) for companies, provided by the Tax administration.

164 The report was made available after IA requested it by FOI request, at: <http://www.poreskauprava.gov.me/ResourceManager/FileDownload.aspx?rld=294084&rType=2>

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator SD_P3_I1: Public perception and availability of information on citizen feedback regarding the quality of administrative services



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

PRINCIPLE 4: THE ACCESSIBILITY OF PUBLIC SERVICES IS ENSURED

WeBER indicator SD_P4_I1: CSOs' perception of accessibility of administrative services

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| CSOs confirm the adequacy of the territorial network for access to administrative services | 0/4 | 0/4 |
| CSOs confirm that one-stop-shops are made accessible to all | 0/4 | 0/4 |
| CSOs consider administrative services to be provided in a manner that meets the individual needs of vulnerable groups | 0/4 | 0/4 |
| CSOs confirm that administrative service providers are trained on how to treat vulnerable groups | 0/2 | 0/2 |
| CSOs confirm that the administration provides different channels of choice for obtaining administrative services | 0/2 | 0/2 |
| CSOs confirm that e-channels are easily accessible for persons with disabilities | 0/2 | 0/2 |
| Total | 0/18 | 0/18 |
| Indicator value (scale 0-5)¹⁶⁵ | 0 | 0 |

This indicator measures the perceptions of CSOs towards the accessibility of administrative services for persons with disabilities, persons in remote areas and minority groups, and other vulnerable groups of population, through a survey of CSOs.

165 Conversion of points: 0-3 points = 0; 4-6 points = 1; 7-9 points = 2; 10-12 points = 3; 13-15 points = 4; 16-18 points = 5.

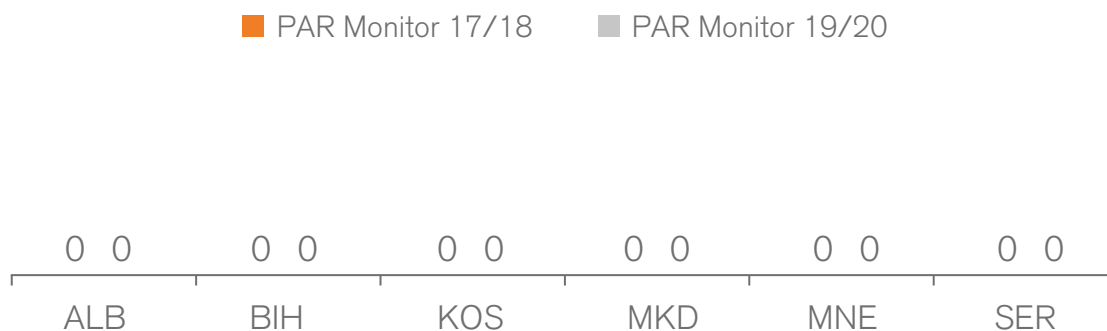
There is almost a consensus among the CSOs that across the territory of the country, administrative service providers are not distributed in such a way that all citizens have easy access. Only 10% of surveyed CSOs “agree” that the distribution is adequate, while not a single CSO answered with the “strongly agree” option to this question. The situation is even worse when it comes to accessibility of one-stop shops, where only 6% of surveyed CSOs agree with the statement that they are accessible to all citizens through their geographic distribution.

Only 2% of surveyed CSOs think that administrative service provision is adapted to the needs of vulnerable groups, and the same percentage “strongly agrees” with the statement that the staff working on administrative service delivery is trained on how to treat vulnerable groups.

Only 10% of surveyed CSOs think that administrative service provision is adapted to the needs of vulnerable groups. Additionally, 4% of CSOs think that channels for accessing administrative services are easily accessible for vulnerable groups. To several questions, there were no CSOs that chose “strongly agree” option to support a positive statement about a certain aspect of accessibility of services, which is an additional indicator of their opinion about the current state of affairs in this area.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator SD_P4_I1: Public perception of state administration’s citizen orientation



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

WeBER indicator SD_P4_I2: Availability of information regarding the provision of administrative services on the websites of service providers

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| Websites of administrative service providers include contact information for provision of services | 4/4 | 4/4 |
| Websites of administrative service providers include basic procedural information on how to access administrative services | 2/4 | 2/4 |
| Websites of administrative service providers include citizen-friendly guidance on accessing administrative services | 0/2 | 0/2 |
| Websites of administrative service providers include information on the rights and obligations of users | 2/2 | 2/2 |
| Individual institutions providing administrative services at the central level publish information on the price of services offered | 2/4 | 2/4 |
| The information on the prices of administrative services differentiates between e-services and in-person services | 0/2 | 0/2 |
| Information on administrative services is available in open data formats | 0/2 | 0/2 |
| Total | 10/20 | 10/20 |
| Indicator value (scale 0-5)¹⁶⁶ | 2 | 2 |

This indicator measures the extent to which information on the provision and accessibility of administrative services is publicly available and if prices of administrative services are presented in an accessible manner and if information provides relevant price breakdown and transparency.

Websites of administrative service providers that were a part of the sample¹⁶⁷ monitored provide contact information for provision of services in entirety. When it comes to providing basic procedural information on how to access administrative services, only those provided by the Tax Administration (2 out of 5 observed services in total) satisfy the requirements for awarding points, with the biggest problem being forms required for the service not available to download. When it comes to providing citizen-friendly guidance on how to access administrative services, again the only attempt can be found at the website of the Tax Administration.

Great majority of the websites of administrative service providers include information on the rights and obligations of users. However, when it comes to the costs of the services, except for the Ministry of Interior which is transparent when it comes to the costs of services of vehicle registration and issuing IDs and passports, no other service provider publishes this information. This is particularly important for the Tax Administration, which advertises the use of its e-portal for companies but fails to mention that a precondition for using it is the digital certificate provided at a significant price (110€ basic package).¹⁶⁸ The service is not charged by the Tax Administration, but in order to use its e-system for declaration of VAT, a digital certificate is needed. There is no clear and accessible information on the website of the Tax Administration that mentions that the digital certificate is not free or how much it costs.

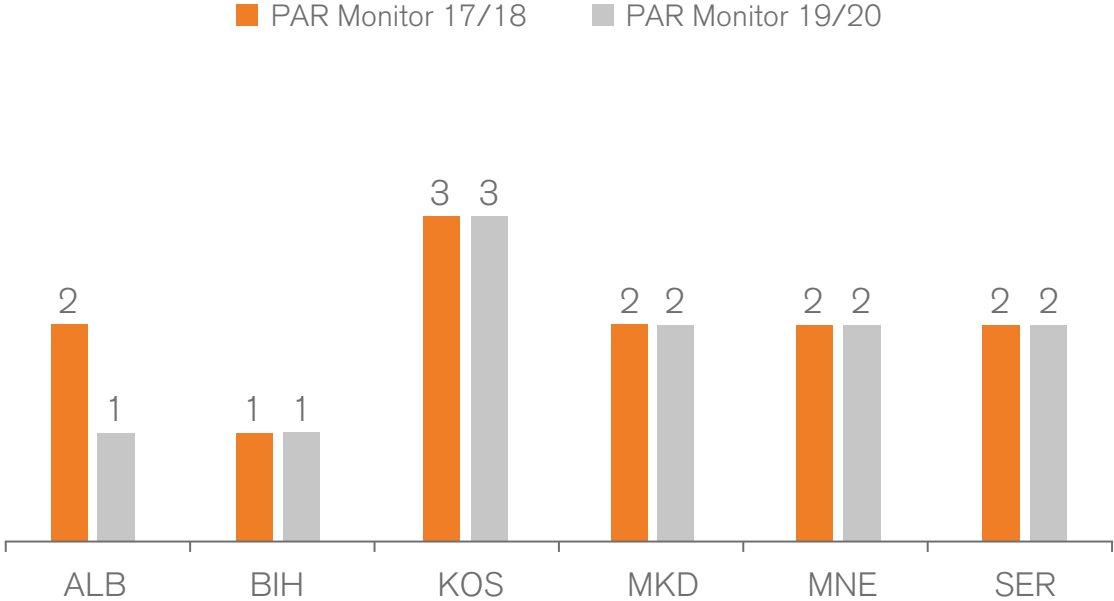
166 Conversion of points: 0-4 points = 0; 5-8 points = 1; 9-11 points = 2; 12-14 points = 3; 15-17 points = 4; 18-20 points = 5.

167 Services that were analysed included 1) Property registration (Property Administration), 2) Company (business) registration (Tax Administration - Central Registry of the Business Entities), 3) Vehicle registration (Ministry of Interior), 4) Issuing of personal documents: passports and ID cards (Ministry of Interior), 5) Declaration of value added tax (VAT) for companies (Tax administration).

168 This certificate is issued by the Post Office of Montenegro: <http://www.postacg-ca.me/Cjenovnik>

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator SD_P4_I2: Availability of information regarding the provision of administrative services on the websites of service providers



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

VI.5 RECOMMENDATIONS FOR SERVICE DELIVERY

| Recommendation | Status | Comment |
|---|-----------------|--|
| In order to increase the usage of the e-government portal, the administration needs to enhance both its usefulness by increasing the number of fully digitalised services available as well as improving the user experience through simplification and better design of the portal. | No action taken | Portal remains unchanged and there are still no new fully digital services offered. Some of the activities implemented during the COVID-19 lockdown measures |
| Service providers should conduct collect, analyse and publish data on user feedback regarding various aspects of the services they provide, in order to use them as an input for improving the services. In the case of contracting external agencies for polling the users, resulting paper should be proactively published. | No action taken | No progress was registered in this round of monitoring. |
| Service providers' websites and the e-government portal should ensure feedback channels for users as a standard practice. | No action taken | Although the perception of the citizens has improved in this regard, little or no progress has been registered in practice. |
| Websites of administrative service providers should in a easily accessible manner present procedural information on how to access the services and, in those services that are used universally or by a majority of citizens, user-friendly guidance on accessing them. | No action taken | No progress was registered in this round of monitoring. |
| Where forms are required for accessing a service, they should be available on the website of the service provider. | No action taken | No progress was registered in this round of monitoring. |
| Service providers must be completely transparent when it comes to cost of services, both direct and indirect (e.g. the price of the digital certificate required for accessing various services, although not issued by the service providers). | No action taken | Problems in this area remain the same, including the price of services offered by the Tax administration and the use of digital certificate. |

Government's e-portal needs to be updated and its interface made more citizen friendly and easy to use.

The e-services offered need to be the ones most commonly used by the citizens and they must be fully digital, able to be completed online.

Service providers should conduct collect, analyse and publish data on user feedback regarding various aspects of the services they provide, in order to use them as an input for improving the services.

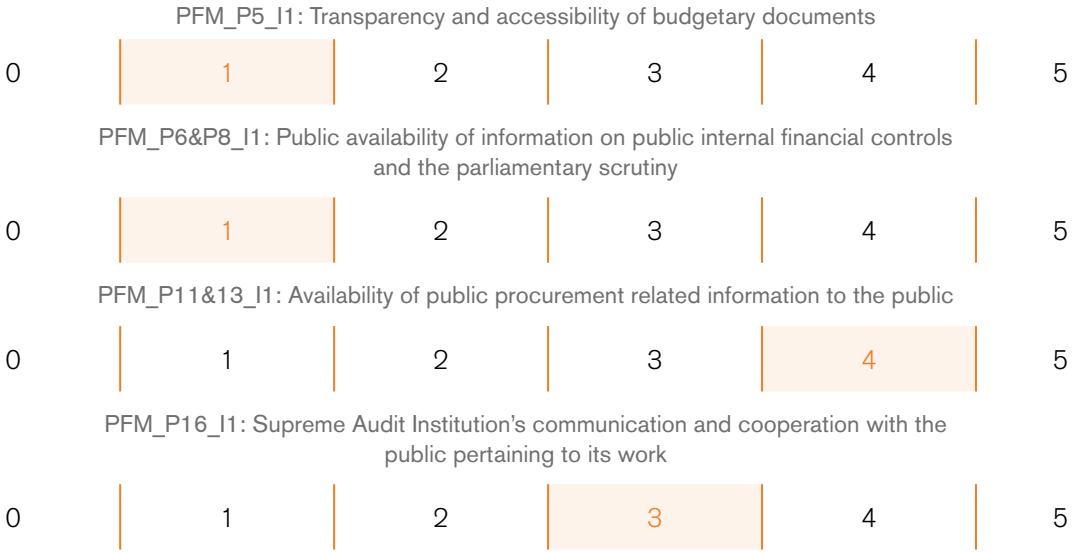
In the case of contracting external agencies for polling the users, service providers should make the results publicly available.

Service providers must be completely transparent when it comes to cost of services, both direct and indirect (e.g. the price of the digital certificate required for accessing various services, although not issued by the service providers).

VI.

**PUBLIC FINANCE
MANAGEMENT**

VII.1 WEBER INDICATORS USED IN PUBLIC FINANCE MANAGEMENT AND COUNTRY VALUES FOR MONTENEGRO



VII.2 RESULTS IN BRIEF

Assessment of transparency and accessibility of information, as well as external communication and proactive and citizen-friendly approach in the key areas of public financial management in Montenegro, exposed a lack of efforts and considerable deficiencies.

Availability and transparency of key budgetary documents in Montenegro is limited. There is no dedicated website section where enacted budget laws (and their amendments) as well as execution reports can be accessed on place. Monthly or any kind of in-year budget execution reporting by the Ministry of Finance is not a legal obligation in Montenegro. Although some irregular in-year reporting does happen, none of it is submitted to the Parliament and reports that are produced do not present budgetary data in all three budgetary classifications (organisational, functional, economic). Year-End Budget Reports do not contain performance data, as there are no set performance targets, precisely defined indicators nor comprehensive data on the outcomes of expenditures. There is no current citizen-friendly presentation of the annual budget and budgetary data is not published in any open data format.

Availability and communication of essential documents and information on public internal financial control (PIFC) to the public and other stakeholders is at very low level. CHU does not publish the results of the internal audit quality reviews, although it performs them. Only two Ministries publish any information about the financial management and control. CHU does not proactively engage with the public to promote PIFC or its effects in any form (interviews, press releases, promotional material, reader friendly digests or social media). On the other hand, the Parliament has no involvement in monitoring of the PIFC system whatsoever and does not deliberate on the consolidated report on PIFC.

State Audit Institution's communication and cooperation with external stakeholders is not well developed, although there has been progress compared to the last round of monitoring. SAI now does have a separate communication strategy, while its reports now mostly do contain what can be assessed as a citizen-friendly summary. Personnel for communication with external stakeholders not all the planned positions from the systematisation act are filled. Except for sporadic press conferences, in the monitoring period SAI did not use social networks for promotion of its work, nor did it have promo materials public campaigns or interactive data presentation and visualisation. There are no channels for submitting complaints or initiatives to SAI by external stakeholders (wider public, CSOs). When it comes to cooperation with CSOs (that would go beyond simple answering of FOI requests), monitoring shows no effort on SAI's part, no consultations organised and no use of CSOs' findings in the reports or in the risk identification phase.

For the first time, WeBER looks into transparency and citizen-friendliness aspects in the public procurement area, with results in Montenegro being the highest in the region. Both the overall public procurement policy reports, central review body reports as well as the individual public procurement plans and reports are published regularly. Reporting on public procurement by the central procurement can be assessed as citizen-friendly and accessible. However, no effort in publishing PP data in open data format was registered. There are problems when it comes to PP portal and its functions and especially the frequent reconstruction of portals which do not include the data for the previous periods covered by their older iterations. A significant percentage of procurements were done res were done in a procedure that is not competitive (higher than 15% of the overall procedures).

VII.3 STATE OF PLAY IN PUBLIC FINANCE MANAGEMENT

Montenegro spends an average of half a billion euro in public procurement annually. It has been seven years since Montenegro opened negotiations with the European Union (EU) regarding Chapter 5 – Public Procurement¹⁶⁹. However, the negotiations have been a continuous process of back and forth with no major breakthrough until recently¹⁷⁰. After many legislative efforts and PPL amending processes, the Law on Public Procurement (PPL) currently in force is to a large extent aligned with the EU Directives. It was adopted in late December 2019 and started to implement on 7th July 2020. First half a year of its implementation showed that several new mechanisms introduced for the first time have either failed to contribute to greater transparency and competition, but also threaten to compromise the equal treatment and non-discrimination, as some of the key principles of public procurement. The report on contract implementation contains the same data as the public procurement contract, thus adding no value to expanding the scope of already available information. Market analysis is not obligatory, but is allowed, and the Law does not envisage an obligation of reporting on the conducted market analysis. This enables the contracting authorities (CA) to privilege bidders of their choice by pre-agreeing on procurement terms. Planning remains a great challenge for Montenegrin contracting authorities and differences between the planned and executed public procurement budget are still very high¹⁷¹.

In its 2018 Report on Montenegro, European Commission noted backsliding in public procurement area for the first time since opening negotiations. Montenegro scored 3 in SIGMA 2019 assessment for the quality of legislative framework for public procurement and PPPs/concessions, and 2/6 for the level of alignment of public procurement legislation with the EU Directives¹⁷². This was due to the Amendments to the Law on Public Procurement adopted in June 2017, which constituted severe backsliding in terms of transparency and competitiveness¹⁷³. In 2019, Montenegro had the highest public procurement spending with the lowest competitiveness ever noted¹⁷⁴. This was a consequence of the implementation of these amendments, in particular the low value procurement (LVP) characterised by wide discretion of the contracting authorities¹⁷⁵. The latest PPL waved most of the issues imposed by the 2017 PPL and the future scores and assessments will to a large extend depend on its proper implementation.

169 Negotiations were opened on December 18, 2013

170 Đurnić, A. (2019), Critical Infrastructure and Public Procurement: The case of Montenegro – Eight Years of Back and Forth, The Western Balkans between Economic Development and Emigration, Aspen Institute Germany, available at:

171 Jaćimović, D. (2021), Public Procurement planning gone wrong, Institute Alternative, available at: <https://institut-alternativa.org/planiranje-nabavki-nije-islo-po-planu/>

172 Monitoring Report 2019: The Principles of Public Administration, SIGMA, available at: <http://www.sigmaweb.org/publications/monitoring-reports.htm>

173 These were widely criticized by domestic civil society and experts in the field, and also by the European Commission, particularly because they were adopted in total secrecy and without organizing public consultations. Đurnić, A. (2017). Secretly on Public Procurement: Backsliding Due to Controversial Amendments. Available at: <http://bit.ly/2oOn341>

174 Public procurement 2019: Increasing spending, decreasing competitiveness, Institute Alternative, available at: <https://institut-alternativa.org/en/33639-2/>

175 "The procedures which apply to these procurement were determined by the internal acts of the contracting authorities. Low value procurement is procurement of goods and services the estimated value of which is equal to or less than 15,000 EUR and procurement of works the estimated value of which is equal to or less than 30,000 EUR.", Đurnić, A. (2018), Low Value Procurement in Montenegro: Without Transparency or Competition, available at: <https://institut-alternativa.org/en/low-value-procurement-in-montenegro-without-transparency-or-competition/>

VII.4 WHAT DOES WEBER MONITOR AND HOW?

The monitoring of the PFM area is performed against six SIGMA Principles.

Principle 5: Transparent budget reporting and scrutiny are ensured.

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

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

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

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

Principle 16: The supreme audit institution applies standards in a neutral and objective manner to ensure high-quality audits, which positively impact on the functioning of the public sector.

As these principles are thoroughly assessed by SIGMA, WeBER's focuses and enhances elements of the transparency and accessibility of information, external communication, as well as proactive and citizen-friendly approaches to informing citizens.

As an additional development since the baseline monitoring, a new indicator was developed to cover the public procurement sub-area of PFM (SIGMA Principles 11 and 13), which was not monitored in the first cycle, and as a result four indicators were measured in this PAR Monitor edition. With this addition, WeBER researchers monitored public procurement policy for the first time, along with annual budget policy, PIFC, and external audits. As it was measured for the first time, the indicator on public procurement in this PAR monitor edition sets baseline values in this area.

The first indicator assesses the transparency and accessibility of budgetary documents, measuring how accessible key budget documents (such as annual state-level budget and budget execution reports) are to citizens, as well as to what extent budgetary information is presented and adapted to the needs of citizens and civil society. To this end, the primary online sources are the data available on the websites of ministries in charge of finance, as well as official government portals and open data portals.

The second indicator measures the availability and communication of essential information on PIFC to the public and other stakeholders (including consolidated reporting, IA quality reviews, and FMC procedural information). The analysis considers official websites and available documents from government institutions in charge of PIFC policy. The websites of all ministries are analysed for the availability of specific FMC-related information, while official parliamentary documentation serves for the measurement of the regularity of parliamentary scrutiny of PIFC.

In the external audit area, the indicator approach considers SAI's external communication and cooperation practices with the public. This area covers the existence of strategic approaches, means of communication used, citizen-friendliness of audit reporting, the existence of channels for reporting on issues identified by external stakeholders, and consultations with civil society. For this purpose, a combination of expert analysis of SAI documents and analysis of SAI websites was used, complemented with semi-structured interviews with SAI staff to collect additional or missing information.

Finally, in the public procurement area, the indicator measures the availability of public procurement-related information to the public. It focuses on whether central procurement authorities and key contracting authorities publish annual plans and reports, as well as how informative and citizen friendly central public procurement portals are for the interested public. Additionally, this indicator looks into the availability of open procurement data as well as the percentage of public procurement processes done in open procedures. This indicator is entirely based on review of official documentation on public procurement policy.

VII.5 WEBER MONITORING RESULTS

PRINCIPLE 5: TRANSPARENT BUDGET REPORTING AND SCRUTINY ARE ENSURED

WeBER indicator PFM_P5_I1: Transparency and accessibility of budgetary documents

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| Enacted annual budget is easily accessible online | 2/4 | 4/4 |
| In-year budget execution reports are easily accessible online | 4/4 | 2/4 |
| Mid-year budget execution reports are easily accessible online | 0/4 | 0/4 |
| Budget execution reports (in-year, mid-year, year-end) contain data on budget spending in terms of functional, organisational and economic classification | 0/4 | 0/4 |
| Annual year-end report contains non-financial information about the performance of the Government | 0/2 | 0/2 |
| Official reader-friendly presentation of the annual budget (Citizen Budget) is regularly published online | 0/4 | 0/4 |
| Budgetary data is published in open data format | 0/2 | 1/2 |
| Total score | 6/24 | 7/24 |
| Indicator value (scale 0 – 5)¹⁷⁶ | 1 | 1 |

Covering key budgetary documents (annual budget, and budget execution reports – monthly, mid-year, and year-end) this indicator focuses on their availability as well as transparency and quality of data they contain, through the prism of citizen-friendliness, performance information and open data. The results in this round of monitoring are a bit lower because although there has been some progress in accessibility of in-year budget reports, there was backtracking in the area of open data and the accessibility of the enacted budget.

Budget law for 2019 is available on the website of the Ministry of Finance while the 2020 is missing.¹⁷⁷ They are published in the aggregated laws library section that has all the legislation related to the work of the Ministry.¹⁷⁸ However, there is no special section dedicated to budgetary documentation at the website of the Ministry, that would, among else, list all enacted annual budget laws (and their amendments) in one place.¹⁷⁹

176 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

177 Budget for 2018: <https://goo.gl/XjsjJ4>; Budget for 2017: <https://goo.gl/ZxN1m8>

178 Law on Budget for 2019 is available in the Library section in the main navigation (Library - Laws): at: <https://mif.gov.me/ResourceManager/FileDownload.aspx?rid=354104&rType=2&file=Zakona%20o%20budzetu%20za%202019.godinu.pdf>

Law on Budget for 2020 cannot be found on the MoF's website.

Post about presentation of the 2020 budget is available on the homepage:

<https://mif.gov.me/vijesti/214769/Predstavljen-Predlog-zakona-o-budzetu-za-2020-godinu-vise-novca-za-gradane-i-razvojne-projekte.html> but the integral version cannot be found at the MoF website.

179 The homepage has a banner that says „Budget of the Ministry” but it leads to a section where only the budget of the Ministry of Finance itself is available: <https://goo.gl/6J6JoV>

Monthly or any kind of in-year budget execution reporting by the Ministry of Finance is not a legal obligation in Montenegro (it is not regulated by the Law on Budget and Fiscal Accountability). However, as part of the participation in IMF General Data Dissemination System (GDDS), Ministry of Finance issues monthly GDDS charts, that among else, contain data on budget revenues and expenditures, on a monthly basis.¹⁸⁰

There is no legal obligation for the Ministry of Finance to prepare mid-year reports either, nor is there a practice of producing such reports by the Ministry. There are only quarterly budget reports, for both the central and the local level, which are also not a legal obligation but are produced anyway, and only published on the website, not formally delivered to the Parliament.

When it comes to classifications present in these documents, out of functional, organizational and economic classification, none of them has them all. Year-end reports have economic and organisational, but no functional classification. The codes for functional classification are present besides each budget line, but there is no aggregated presentation of expenditures in accordance with the functions of the state, nor a legend for the codes, which renders their presence in the budgetary data useless. GDDS monthly reports only contain economic classification, as do the quarterly budget reports.

Year-End Budget Reports contain some nonfinancial performance data in the accompanying rationale, but no actual non-financial information about the performance of the Government is available. As there are no performance targets or goals, there are also no precisely defined indicators or comprehensive data on the impact of expenditures. What exists is sporadic data on the activities (outputs) of the institutions, such as the number of decisions adopted or reviewed by a certain institution, the number of organised trainings, summarised information about the activities of the institutions within their programs. It should be noted that Year-End Budget reports are not available at the website of the Ministry of Finance at all, except in bill form and scattered throughout the website, with no special section devoted to it, accessible only through advanced search of the website

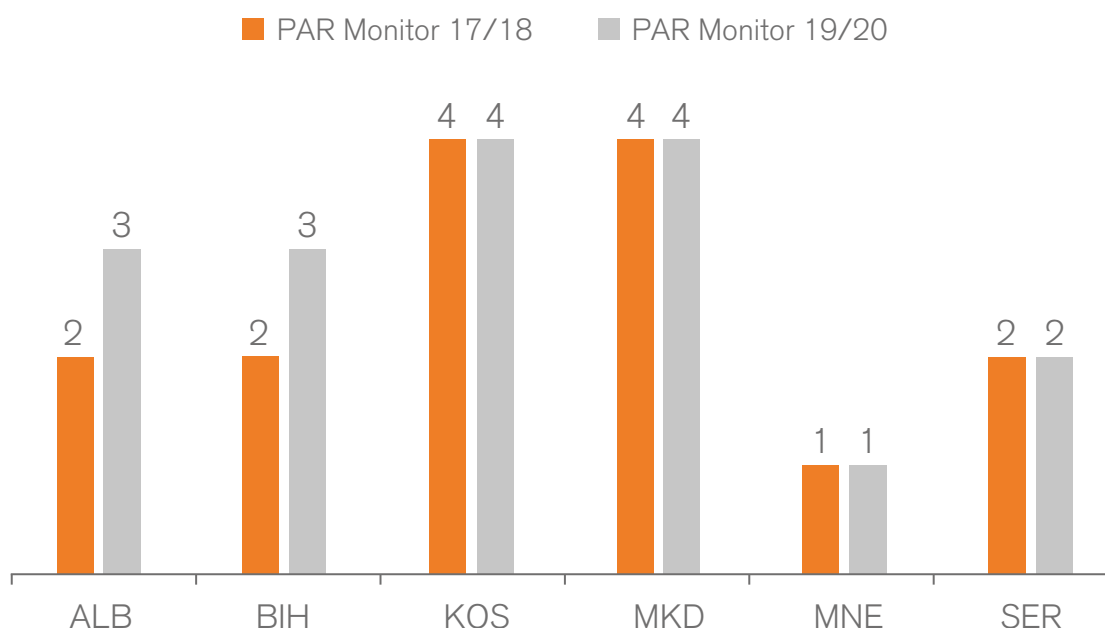
There is no official budget visualisation and no attempt has been made in the previous two years to produce a citizen budget. Although this is an obligation prescribed by the 2015-2020 PFM Reform Programme, it is still not implemented, citing delays in implementation of the EU-funded project supporting the programme.

Budgetary data is not regularly published in open data format. There is no open data policy of the Ministry of Finance and annual budget or the year-end report are not published in any open data format, but in .pdf.

180 These reports are available in the section „Publications“, whose banner is on the homepage sidebar navigation: <http://www.mf.gov.me/rubrike/prezentacije/>

HOW DOES MONTENEGRO DO IN REGIONAL TERMS?

Indicator PFM_P5_I1: Transparency and accessibility of budgetary documents



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

PRINCIPLE 6: THE OPERATIONAL FRAMEWORK FOR INTERNAL CONTROL DEFINES RESPONSIBILITIES AND POWERS, AND ITS APPLICATION BY THE BUDGET ORGANISATIONS IS CONSISTENT WITH THE LEGISLATION GOVERNING PUBLIC FINANCIAL MANAGEMENT AND THE PUBLIC ADMINISTRATION IN GENERAL

PRINCIPLE 8: THE OPERATIONAL FRAMEWORK FOR INTERNAL AUDIT REFLECTS INTERNATIONAL STANDARDS, AND ITS APPLICATION BY THE BUDGET ORGANISATIONS IS CONSISTENT WITH THE LEGISLATION GOVERNING PUBLIC ADMINISTRATION AND PUBLIC FINANCIAL MANAGEMENT IN GENERAL

WeBER indicator PFM_P6&8_I1: Public availability of information on public internal financial controls and the parliamentary scrutiny

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| Consolidated annual report on PIFC is regularly produced and published online | 4/4 | 4/4 |
| Quality reviews of internal audit reports are regularly produced and published online | 0/2 | 0/2 |
| Ministries publish information related to financial management and control | 0/2 | 0/2 |
| CHU proactively engages with the public | 0/2 | 0/2 |
| The Parliament regularly deliberates on/reviews the consolidated report on PIFC | 0/2 | 0/2 |
| Total score | 4/12 | 4/12 |
| Indicator value (scale 0 – 5)¹⁸¹ | 1 | 1 |

181 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

The indicator measures availability and communication of essential documents and information on public internal financial control (PIFC) to the public and other stakeholders, and if reports on PIFC implementation are discussed in the Parliament. The results in this indicator are unchanged compared to the last round of monitoring with no progress noted in terms of PIFC's transparency and openness to public or parliamentary scrutiny.

According to the Law on System of Internal Financial Control in the Public Sector, the Central Harmonisation Unit (CHU) prepares a consolidated report and delivers it to the Government by the end of March of the current year for the previous year. These reports are not available on the website of the Ministry of Finance at all, and that there is no special section of the website devoted to them. The website of the CHU itself is an integral part of the Ministry of Finance website, with no special sections/features of its own. Therefore, the consolidated PIFC reports are available only on the central portal of the Government, at the webpages devoted to the sessions of the Government when they were on the agenda and adopted. This makes their accessibility significantly limited as the effort required to reach them is considerable.

When it comes to the availability of the quality reviews of internal audit reports, website review returned no results for quality review reports. New Rulebook on methodology of internal audit quality review was adopted in 2020, which does not foresee publishing of any documents related to quality review by either the CHU or the internal audit. It also now divides quality review into two parts - one done by the CHU as before and the review done by the internal audit itself. 24 internal audit units have adopted their Programme of securing and enhancing quality, but none are publicly available. The annual reports published by the CHU do not sum up the results of the conducted quality reviews.

The consolidated reports for 2018 and 2019 contain several paragraphs that state the quality reviews were done for both FMC and IA, with a few sentences on the problems registered. This is done more in the overall context of reporting on the work done by CHU, and less with the intention of presenting the results of the quality review process.

Analysis Information related to how much of the information on financial management and control¹⁸² is publicly available returned a very low result in all of the Ministries. Out of 17 Ministries, only 5 (29%) have any of the required documents published. These are Ministry of Foreign Affairs (risk register); Ministry of Sustainable Development and Tourism (risk register and book of procedures (unified document/page), Ministry for Human and Minority Rights (book of procedures), Ministry of Defence (Risk register), Ministry of Justice (Risk Register). None of the Ministries have FMC person publicly identified or his/her contacts published.

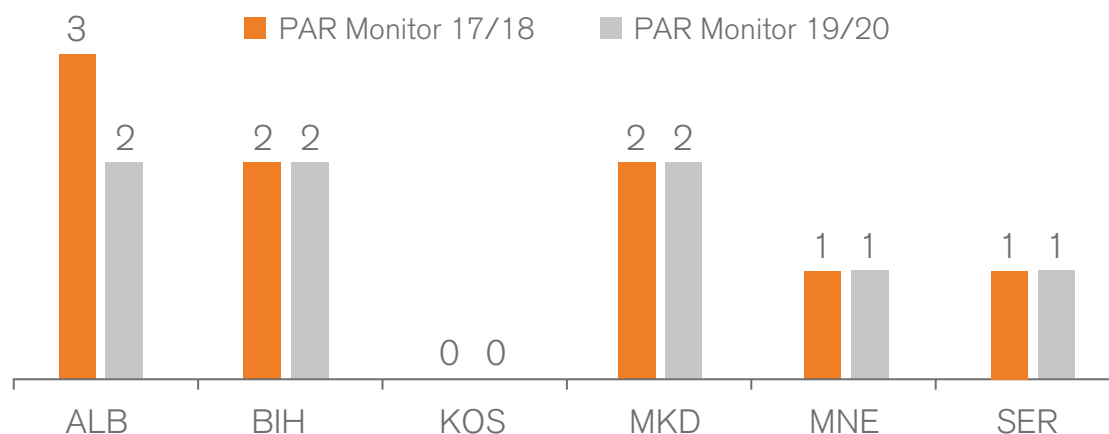
CHU does not proactively engage with the public: in the reporting period, there were no press release published, no media appearance by the CHU representatives, no booklets, leaflets, and other info material were produced, there were no reader-friendly digests or summaries of reports produced by the CHU or any promotional activity on the social media.

The Parliament has no involvement in monitoring of the PIFC system whatsoever. The analysis of website of the Parliament and available documentation as well as the legislative framework, showed that the Parliament does not deliberate on the consolidated report on PIFC at all.

182 This information was interpreted to include: 1. Risk registers; 2. Procedure registry/Book of procedures; 3. Information on who is the appointed FMC manager.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PFM_P6&P8_I1: Public availability of information on public internal financial controls and the parliamentary scrutiny



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

PRINCIPLE 11: THERE IS CENTRAL INSTITUTIONAL AND ADMINISTRATIVE CAPACITY TO DEVELOP, IMPLEMENT AND MONITOR PROCUREMENT POLICY EFFECTIVELY AND EFFICIENTLY

PRINCIPLE 13: PUBLIC PROCUREMENT OPERATIONS COMPLY WITH BASIC PRINCIPLES OF EQUAL TREATMENT, NON-DISCRIMINATION, PROPORTIONALITY AND TRANSPARENCY, WHILE ENSURING THE MOST EFFICIENT USE OF PUBLIC FUNDS AND MAKING BEST USE OF MODERN PROCUREMENT TECHNIQUES AND METHODS

WeBER indicator PFM_P11&13_I1: Availability of public procurement related information to the public

| Indicator elements | Scores 2019/2020 |
|---|------------------|
| E.1 Central procurement authority regularly reports to the public on the implementation of overall public procurement policy | 4/4 |
| E.2 Central review body regularly reports to the public on procedures for the protection of rights of bidders in public procurement | 4/4 |
| E.3 Reporting on public procurement by the central procurement is citizen-friendly and accessible | 2/2 |
| E.4 Public procurement portal is user-friendly | 1/2 |
| E.5 Central-level contracting authorities regularly publish annual procurement plans | 4/4 |
| E.6 Central-level contracting authorities regularly publish annual procurement reports | 4/4 |
| E.7 Central procurement authority publishes open procurement data | 0/2 |
| E.8 Open and competitive procedures are the main method of public procurement | 0/4 |
| Total score | 19/26 |
| Indicator value (scale 0 – 5)¹⁸³ | 4 |

Public procurement indicator was measured for the first time, and it sets baseline value in this cycle.

183 Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

Central procurement authority regularly reports to the public on implementation of overall public procurement policy. All the reports (for the last five years) are available at the website of the (now defunct) Public Procurement Administration.¹⁸⁴ Since the reorganisation of the state administration in 2018, the Public Procurement Administration has ceased to exist and its function has been taken over by the Directorate for Public Procurement Policy in the Ministry of Finance.

All reports are published at one website location (<http://www.ujn.gov.me/category/izvjestaji/>) and they are available with one click from the homepage. The reports contain a two-page executive summary that is at the beginning of the report. The summary is assessed as sufficiently clear and written in non-jargon language to be considered as reader-friendly. It contains the key facts from the report and key trends/changes in comparison to past year. Additionally, annual reports contain **Lična karta javnih nabavki**, or a personal id of public procurement in the last year, a succinct summary of an annual performance¹⁸⁵ with all the key numerical information about PPs on one page (number of contracts, total spending, average number of bids, etc). The reports also use various types of graphs to illustrate information¹⁸⁶ as well as numerous charts.

Monitoring findings show that central procurement bodies regularly report on the implementation of procurement policy and protection of rights in procurement procedures.¹⁸⁷

All the individual PP plans are available at the central procurement portal as a rule, some also publish the plans on their own individual websites but the practices vary (in terms of regularity and location on the website). Also, the reports for 2019 and 2018 for all individual institutions are available at the website of the central procurement authority.¹⁸⁸

Central public procurement portal¹⁸⁹ does not require registration to use its search functionalities and view documentation. It gives access to full tender documentation is free of charge (no subscription fees or any similar monetary barrier). Its search function includes free text search, notice type, contracting body and time period filters. It does not contain any explanation of key public procurement terms (glossary) nor guides on how to use its functions (textual or multimedia format).

From January 1, 2021, the electronic public procurement system - ESJN¹⁹⁰ will start working (while the current public procurement portal will remain in function only for the started public procurement procedures that were published on it.

In this regard it is important to note the bad practice of starting from scratch for each new portal. In Montenegro, in the period of nine years, three portals for PP have been created (in 2012, 2015 and 2021). Though each one was an improvement over the previous in terms of functionality, they however did not contain the information from the period in which the previous version of the portal was the valid one. Each new version was a clean slate that started to be populated with data from the day of publishing. Subsequent portals usually contain links to previous ones, noting that information from a certain time span can be found at the older version. This practice limits the usefulness of the portal, hampers any in-depth analysis in a longer period and forces users to shift between portals in search for information. While improvement of functionalities and using new IT tools to enable better user experience is desirable, an effort must be made to include past data into new portals.

184 See: <http://www.ujn.gov.me/category/izvjestaji/>

185 See report for 2019 of the Directorate for Public Procurement Policy in Montenegro, available at: <http://www.ujn.gov.me/wp-content/uploads/2020/07/izvjestaj-2019.-29.05.2020.-1.pdf>

186 Using the example of 2019 annual report, graphs are used on p. 16, 19, 20, 24, 25, 27, 28, 31, 32, 35.

187 See: 2017 report available at: <http://www.kontrola-nabavki.me/1/dokumenta/izvje%C5%A1taj%20o%20radu%20%202017%20godina.pdf>
2018 report available at: <https://www.gov.me/ResourceManager/FileDownload.aspx?rId=373379&rType=2>

2019 report available at: <http://www.kontrola-nabavki.me/1/dokumenta/izvje%C5%A1taj%20o%20radu%20Dr%C5%BEavne%20komisije%20za%20kontrolu%20postupaka%20javnih%20nabavki%20za%202019.%20godinu.pdf>

188 See: <http://www.ujn.gov.me/pojedinacni-izvjestaji-obveznika-primjene-zakona-o-javnim-nabavkama>

189 Available at: <http://portal.ujn.gov.me/delta2015/login.jsp>

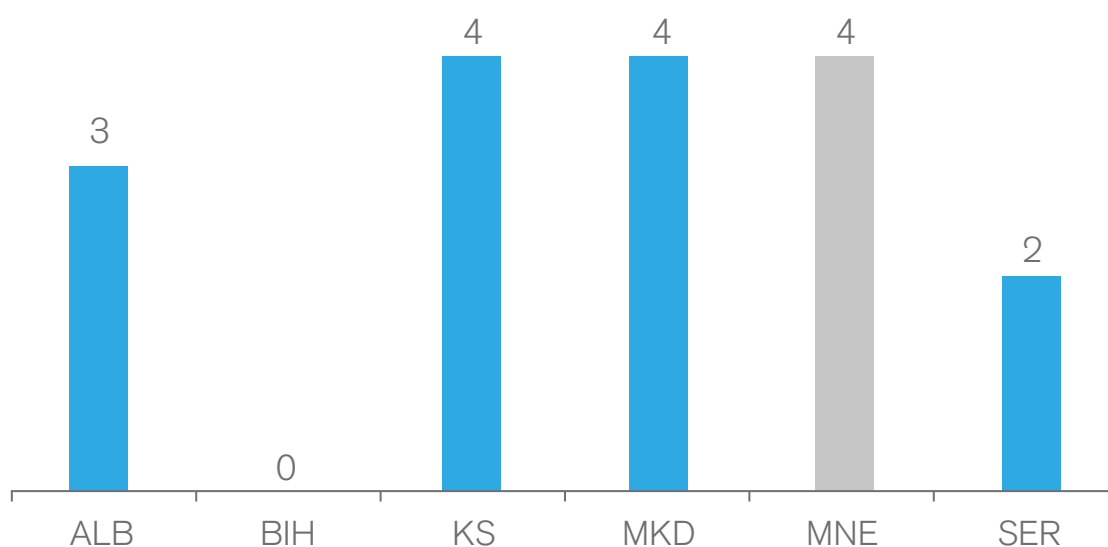
190 Available at: <http://cejn.gov.me/tenders>

No PP data is published in open format on any official website. Central PP portal does not allow any kind of data export to open formats - documentation is available in either PDF or DOCX. Only the Parliament of Montenegro publishes its procurement data in open format at the open data portal.¹⁹¹ However, since this is an initiative of a single institution, and not central procurement authority, no points were awarded

In the last calendar year at the time of monitoring (2019), 16,54% % of public procurement procedures were implemented using other methods than open ones (competitive). The data shows¹⁹² that the participation of the open procedure as the most transparent is 83.46%, restricted procedure 0.003%, the negotiated procedure with prior publication of a call for tenders 0.053%, the award of public procurement by tender 0.0003%, small procurements 13,18%, emergency procurements 2,87%.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PFM_P11&P13_I1: Availability of public procurement related information to the public



Regional PAR Monitor Report with results for all WB administrations is available at: www.par-monitor.org.

191 See: <https://www.data.gov.me/podatak.php?id=150>, <https://www.data.gov.me/podatak.php?id=149>

192 Annual public procurement report 2019: <http://www.ujn.gov.me/wp-content/uploads/2020/07/Izvestaj-2019.-29.05.2020.-1.pdf>

PRINCIPLE 16: THE SUPREME AUDIT INSTITUTION APPLIES STANDARDS IN A NEUTRAL AND OBJECTIVE MANNER TO ENSURE HIGH-QUALITY AUDITS, WHICH POSITIVELY IMPACT ON THE FUNCTIONING OF THE PUBLIC SECTOR

WeBER indicator PFM_P16_I1: Supreme Audit Institution's communication and cooperation with the public pertaining to its work

| Indicator elements | Scores 2019/2020 | Scores 2017/2018 |
|---|------------------|------------------|
| SAI develops a communication strategy for reaching out to the public | 4/4 | 2/4 |
| SAI has dedicated at least one job position for proactive communication and provision of feedback to the public | 2/4 | 2/4 |
| SAI utilises various means of communication with the public | 0/2 | 1/2 |
| SAI produces citizen-friendly summaries of audit reports | 4/4 | 0/4 |
| Official channels for submitting complaints or initiatives to SAI by external stakeholders are developed (wider public, CSOs) | 0/2 | 0/2 |
| SAI consults CSOs and their work for the purpose of identifying risks in the public sector | 0/2 | 0/2 |
| Total score | 10/18 | 5/18 |
| Indicator value (scale 0 – 5)¹⁹³ | 3 | 1 |

The indicator considers elements of SAI's communication and cooperation with external stakeholders. This is one of the elements with most significant progress compared to the previous round of monitoring, reflected in doubling of points and jump from 1 to 3 on the indicator scale. The key reasons lie in the adoption of the SAI's Communication strategy as well as increased production of citizen-friendly summaries of its reports.

In June 2020, the SAI has adopted its Communication Strategy for the period 2020-2024.¹⁹⁴ It has three specific goals - enhancing the perception of Parliament, Government and "informed society" about the value of SAI's work. Within the third goal, SAI lists the following activities: logo redesign, redesign of its website, publishing of calendar of audits, preparing communication plans for each individual audit report with specific products and audiences, enhancing communication/outreach capacities among the SAI staff, developing the policy of using social networks, preparing video messages for audit reports, organising annual meetings with civil society, organising lectures on SAI for students, filling the vacancy of the communication officer.

Therefore, there is a defined communication goal, with planned activities. There are no indicators in the strategy. Interview with the SAI representative confirmed that an Action Plan for implementation of the Strategy has been prepared with more details on planned activities and indicators, but it is not public. A FOI request was sent to access it, but the answer was not received by the end of the monitoring period. Since a stand-alone communication strategy was adopted, maximum points have been awarded.

Regarding personnel for communication with external stakeholders, situation is better on paper than in practice, as not all the planned positions are filled.¹⁹⁵ The Rulebook on Internal Organisation and Systematisation of Positions in the SAI envisages the establishment of a "Department for international cooperation and standards, strategic development, and relations with the Parliament, Government, and the public" within Sector I. The

¹⁹³ Conversion of points: 0-5 points = 0; 6-10 points = 1; 11-15 points = 2; 16-20 points = 3; 21-25 points = 4; 26-30 points = 5.

¹⁹⁴ Available at:

¹⁹⁵ More detailed analysis of some aspects of SAI's communication efforts is available in Institute Alternative's paper: "Visibility of the State Audit Institution's Work: Elements for a Communication Strategy", at:

<https://institut-alternativa.org/en/visibility-of-the-state-audit-institutions-work-elements-for-a-communication-strategy/>

Rulebook envisages three positions, but only one position – that of the manager – has been actually filled. The two vacant positions are: 1) Adviser for Relations with the Public, Parliament, Government, and the Non-Governmental Sector, and 2) Adviser for Development, International Standards, and International Relations. The job description of the Public Relations Adviser (Adviser for Relations with the Public, Parliament, Government, and the Non-Governmental Sector) includes some standard tasks, such as cooperation with the media, communication with the Parliament, Government, NGOs, preparing press releases, organising media conferences, etc. However, it also includes some technical tasks, such as proof-reading all audit reports and other SAI written materials, updating the SAI website, preparing international visits, protocol, etc. Answering citizens' questions and queries related to the SAI scope of work and Handling and forwarding citizens' complaints, tips, and inputs regarding the utilisation of public funds are not listed in the job description of this position.

Among the five SAI sectors that perform auditing tasks, Sector I is in charge for the audit of the final account of the budget and several audited entities. According to the Rulebook, department managers are directly accountable to the heads of Sector, and the sectors are managed by SAI Senate members. This would mean that the person in charge of SAI's public relations is accountable to the head of Sector I, i.e. the President of the Senate, who is managing this sector. The department in question is in practice not just tied to Sector I but works with all other sectors. This set-up is not well-tailored to the nature of public relations as a profession, as it needs to be horizontal and cross-cutting, covering the institution as a whole and thoroughly informed about activities of all sectors, but at the same time accountable only to the Senate President and not to each Sector manager individually. The only horizontal units at the SAI (the units that are not formally part of just one sector but cross-cutting) are the Service for Administrative Affairs and the Internal Audit Unit.

In the 12 months preceding the measurement, apart from publishing its audit reports and other information on its website, SAI has also used press conferences as a mean of communication with the public.¹⁹⁶ However, SAI does not use social network accounts, it had no promo materials (information brochures, leaflets, videos, multimedia presentations or similar) prepared, nor did it use public campaigns or interactive data presentation and visualisation. No promotional materials were published in the monitoring period.

In the monitoring period (December 2019 - December 2020), SAI published 41 audit report. The analysis of each individual report, available in annex to this indicator, shows that out of that number all the reports have an accompanying summary, but not all of them are assessed as being citizen friendly - researchers assessed 29 to fulfil at least the minimal criteria (70,7%).

The structure of the audit reports is defined by the Methodological guidelines on conducting the compliance and financial audit.¹⁹⁷ It does not foresee the preparation of an executive summary or a citizen-friendly overview of the key findings.

SAI has started publishing website posts accompanying publication of audit reports. These posts aim to serve as a summary of the report, and are no longer just a copy paste of the formal parts of the audit report (opinion). They are mostly short and give an overview of the main problems that were identified, though still using a formal and technical jargon. Researchers however awarded points for citizen-friendliness due to the fact that effort was invested to produce a text that is not simply copied from the reports, to sum up the intentions and reasoning behind initiating the audit, and the resulting texts are mostly readable, providing the citizens with a short and relatively concise explanation of the findings.

196 In the monitoring period, it has held two press conferences:

Press conference was organised in July 2020 in order to present the Communication Strategy:

http://www.dri.co.me/1/index.php?option=com_k2&view=item&id=723:komunikaciona-strategija-dri-za-period-2020---2024-godine-ka-o-sredstvo-za-ostvarivanje-proaktivne-komunikacije-sa-ključnim-zainteresovanim-stranama&Itemid=231&lang=sr

Another press conference was held in January 2020 in order to present the results of the World bank's PEFA report for 2019 and results for SAI - http://www.dri.co.me/1/index.php?option=com_k2&view=item&id=710:održana-konferencija-za-medije-povodom-rezultata-iz-izveštaja-o-ocjeni-učinka-javna-potrošnja-i-finansijska-odgovornosti-pefa&Itemid=231&lang=sr

197 Available at:

<http://www.dri.co.me/1/doc/Uputstvo%20o%20metodologiji%20vrsenja%20finansijske%20revizije%20i%20revizije%20pravičnosti.pdf>

In October 2020, SAI published a resume of the year-end budget report audit as a separate publication, with some graphical elements that set it apart from other SAI products.¹⁹⁸ No other examples of this practice were observed, except the annual report which also has some graphical presentation of data on SAI's work.

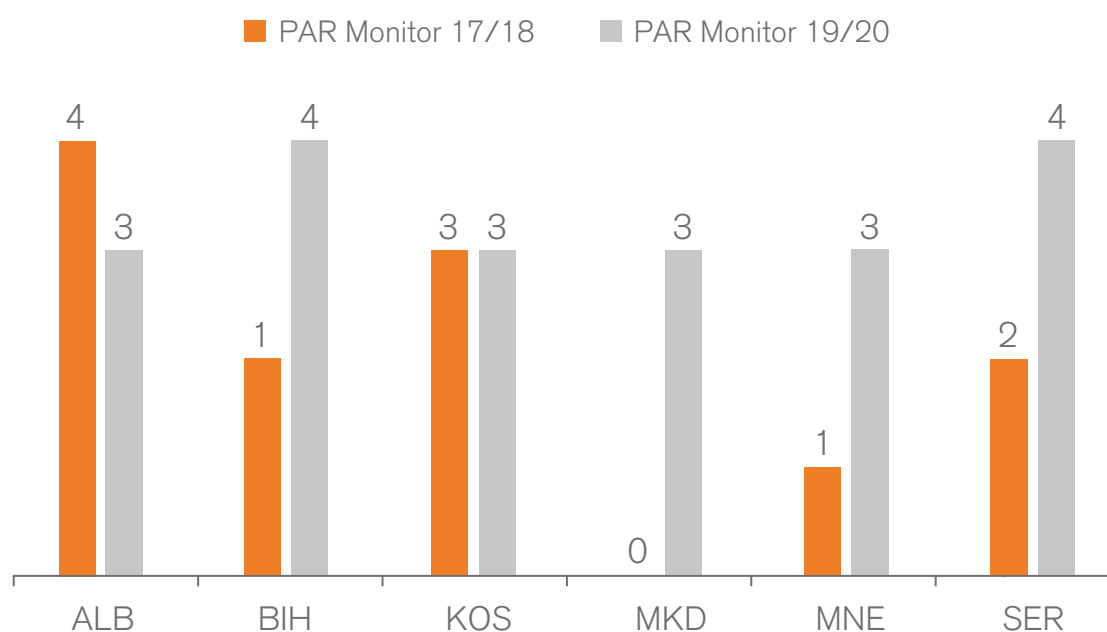
In the monitoring period, SAI published 59 audit reports. The analysis of each individual report, shows that out of that number only 8 reports (13%) fulfil the criteria of having a citizen-friendly summary.¹⁹⁹ SAI does produce a text for its website that accompanies publishing an audit report, however it is not an original content, but a copy-paste of introductory part of the audit report itself.

There are no channels for submitting complaints or initiatives to SAI by external stakeholders (wider public, CSOs). The SAI does receive complaints, initiatives from various stakeholders (MPs, media, citizens, organisations) through archive or official email addresses, but does not have a dedicated web or other kind of channel for receiving these materials, nor does it have a prescribed procedure to deal with them (in its internal acts).

When it comes to cooperation with CSOs (that would go beyond simple answering of FOI requests), monitoring shows no effort on SAI's part. There have been no consultation events organised either by the SAI, or by a CSO and then attended by SAI representatives, in the last two years preceding the measurement. No audit report published in the last 2 years mentions any kind of CSO paper or analysis in any context. Annual reports of SAI confirm that CSO papers are not used in the risk identification phase. Internal acts of SAI also do not foresee the usage of CSO papers in any phase of the audit process.

HOW DOES MONTENEGRO FARE IN REGIONAL TERMS?

Indicator PFM_P16_I1: Supreme Audit Institution's communication and cooperation with the public pertaining to its work



198 Available at: <http://www.dri.co.me/1/doc/Rezime%20%20Izveštaja%20o%20reviziji%20Predloga%20zakona%20o%20završnom%20računu%20budžeta%20Crne%20Gore%20za%202019.%20godinu.pdf>

199 Citizen-friendly summaries of audit reports are interpreted to mean shortened and concise explanation of the main findings, results and conclusions of conducted audits, free of highly technical language.

VI.6 RECOMMENDATIONS FOR PUBLIC FINANCE MANAGEMENT

| Recommendation | Status of implementation | Justification |
|---|--------------------------|--|
| A special section dedicated to budgetary documentation - all annual budget laws, their amendments, in-year spending reports and year-end budget reports - should be created within the the website of the Ministry of Finance. | No action taken | There has been no change in the practice of publishing key budgetary documents by the executive, they are still scattered over the website of the Government. |
| Year-end budget report should provide performance information about the work of individual budget users. Although this is tied to broader programme and performance budgeting reforms, and depends on establishing precise and measurable goals in the budget plan, the necessity to present performance data to the public must be ingrained in these plans from the outset. | Initiated | No progress has been made in the contents and structure of the year-end report, although there has been a progress in the development of the programme budget after the monitoring period ended, for now limited to the Law on budget. |
| Law on Budget and Fiscal Accountability should be amended so as to prescribe publishing of monthly and mid-year budget spending reports as obligations of the Ministry of Finance, containing data based on functional, economic, programme and organisational classification. | No action taken | The Law was not amended and the reporting practices were not improved in terms of obligatory classifications. |
| Ministry of Finance should commence with the practice of regular preparation of citizen-friendly version of the annual budget. | No action taken | No citizen budget version of the national budget was prepared in the monitoring period. |
| Ministry of Finance should publish all budgetary data in open data formats, using the new Open Data Portal. | No action taken | Ministry did not use the Open Data Portal to publish any budgetary data (only one database on commercial auditors has been published so far) |
| Annual consolidated PIFC reports should be available at the website of the CHU. | No action taken | CHU still does not publish the consolidated PIFC report on its website nor has a special section for the reports on its website. |
| Ministries should proactively publish information pertaining to PIFC, such as: annual audit reports (with statistical data and key problems registered, in the case that individual reports are classified), information on FMC managers, risk and procedure registers (book of procedures). | No action taken | There has been no systematic progress in this regard, although more ministries publish this data, they do not do it in a sufficient level to increase points in this indicator. |

| | | |
|--|-----------------|---|
| Quality reviews of internal audit should be published either in their entirety or at least summarising their key findings and recommendations. | No action taken | There has been no progress at all in this regard. |
| The parliamentary Committee for Economy, Finance and Budget should introduce the practice of deliberating on the Annual consolidated PIFC report. | No action taken | The Committee did not initiate this practice. |
| SAI should provide the public with citizen-friendly summaries of each audit reports that would explain the key information from the report in a jargon-free language. | Initiated | There has been progress in preparing citizen-friendly summaries of the reports. |
| SAI should develop its communication and use tools such as infographics, videos, brochures, data visualisation and social media to promote its work and findings to a wider public. | Initiated | SAI has adopted a special communication strategy and has started using some of these methods to promote its work. |
| SAI should develop and promote a channel for communication with citizens as well as devise procedures for handling citizen reports and complaints about misuse of budget funds or irregularities in the functioning of budget users. | No action taken | There has been no progress in this regard. |
| SAI should introduce measures of cooperation with CSOs such as regular meetings and use their input as one of the risk indicators in annual work planning as well as rely on their findings in preparation for specific audits. | No action taken | Although a meeting with CSOs did take place, it was a civil society initiative that was not followed up by SAI not institutionalised in practice or internal acts of the SAI. |

REPEATED RECOMMENDATIONS:

A special section dedicated to budgetary documentation - all annual budget laws, their amendments, in-year spending reports and year-end budget reports - should be created within the the website of the Ministry of Finance.

Year-end budget report should provide performance information about the work of individual budget users. Although this is tied to broader programme and performance budgeting reforms, and depends on establishing precise and measurable goals in the budget plan, the necessity to present performance data to the public must be ingrained in these plans from the outset.

Law on Budget and Fiscal Accountability should be amended so as to prescribe publishing of monthly and mid-year budget spending reports as obligations of the Ministry of Finance, containing data based on functional, economic, programme and organisational classification.

Ministry of Finance should commence with the practice of regular preparation of citizen-friendly version of the annual budget.

Ministry of Finance should publish all budgetary data in open data formats, using the new Open Data Portal.

Annual consolidated PIFC reports should be available at the website of the CHU.

Ministries should proactively publish information pertaining to PIFC, such as: annual audit reports (with statistical data and key problems registered, in the case that individual reports are classified), information on FMC managers, risk and procedure registers (book of procedures).

Quality reviews of internal audit should be published either in their entirety or at least summarising their key findings and recommendations.

The parliamentary Committee for Economy, Finance and Budget should introduce the practice of deliberating on the Annual consolidated PIFC report.

SAI should provide the public with citizen-friendly summaries of each audit reports that would explain the key information from the report in a jargon-free language.

SAI should develop its communication and use tools such as infographics, videos, brochures, data visualisation and social media to promote its work and findings to a wider public.

SAI should develop and promote a channel for communication with citizens as well as devise procedures for handling citizen reports and complaints about misuse of budget funds or irregularities in the functioning of budget users.

SAI should introduce measures of cooperation with CSOs such as regular meetings and use their input as one of the risk indicators in annual work planning as well as rely on their findings in preparation for specific audits.

METHODOLOGY

APPENDIX

PAR Monitor Methodology was developed by the research and expert team of WeBER and widely consulted among all relevant WeBER associates. Overall, for the second, 2019/2020 monitoring cycle, the methodology is based on the selection of 22 SIGMA Principles within six key areas of PAR, and selected Principles are monitored through 23 compound indicators that focus on different aspects of PAR.

PAR Monitor methodology (master) document provides details on the overall approach of WeBER PAR monitoring, the process of developing the methodology, the selection of the Principles which the WeBER project monitors and the formulations of indicators with the basic methodological approaches. Detailed information needed for the measurement of each indicator is provided in separate detailed indicator tables. Each detailed indicator table contains the formulation and focus of a specific indicator, as well as the following information for each of the indicator elements: formulation, weight, data sources, detailed methodology, and point allocation rules.

PAR Monitor methodology, and detailed indicator tables are available at the following link:

<http://www.par-monitor.org/pages/par-monitor-methodology>

For producing this National PAR Monitor report for Montenegro, the following research methods and tools were used for data collection and calculation of indicators:

- Analysis of official documentation, data, and official websites
- Requests for free access to information
- Focus groups
- Interviews with stakeholders
- Public perception survey
- Survey of civil servants
- Survey of civil society organisations.

ANALYSIS OF OFFICIAL DOCUMENTATION, DATA AND OFFICIAL WEBSITES

Monitoring heavily relied on the analysis of official documents publicly available on the websites of administration bodies and on the data and information contained therein. Documents which were analysed to this end include:

- legislation (laws and bylaws)
- policy documents (strategies, programmes, plans, action plans, etc.)
- official reports (implementation reports, public consultation reports etc.)
- analytical documents (impact assessments, explanatory memorandums to legislation, policy concepts, policy evaluations etc.)
- individual legal acts (decisions, conclusions etc.)
- Other documents (agendas, meeting minutes and reports, announcements, guidelines, directives, memorandums etc.).

In some instances, responsible authorities were directly contacted by researchers for missing documents and data. Additionally, official websites of public authorities were used as sources of data and documents for all indicators, except for the ones completely based on survey data. In certain cases, the websites of public authorities were closely scrutinised as they were the key sources of information and units of analysis.

REQUESTS FOR FREE ACCESS TO INFORMATION (FOI)

As the PAR Monitor methodology strongly relies on the analysis of public availability of information and data, usually based on the websites of public authorities, FOI requests were not comprehensively sent out for each PAR area or every indicator. Requests were sent in cases where monitoring focus was on the proper identification of certain practice within administration, rather than public availability of information. Hence, where specific indicator requires online availability of information on specific websites, FOI request were not sent.

That said, the researchers used FOI requests as a data collection tool in three areas: Policy Development and Coordination (indicator PDC_P10_I1), Public Service and Human Resource Management (PSHRM_P3_I1, PSHRM_P4_I1, PSHRM_P2_I1), and Accountability (ACC_P2_I2).

FOCUS GROUPS

Focus groups were conducted for collecting qualitative, in-depth inputs from stakeholders for a selection of indicators - for the ones either fully based on survey data to complement them, or for those that relied on otherwise collected information that needed to be corroborated by focus group participants. The PAR Monitor methodology envisaged focus groups for:

- Strategic Framework for PAR, with civil society organisations (for indicators SFPAR_P1_I1, SFPAR_P2&4_I1)
- Policy Development and Coordination, with civil society organisations (covering PDC_P5_I2, PDC_P6_I1, PDC_P10_I1, PDC_P11_I1, PDC_P12_I1)
- Public Service and Human Resource Management, with former candidates who previously applied for a job in central state administration bodies (for indicator PSHRM_P3_I1)
- Accountability, with civil society organisations (for indicator ACC_P2_I1), and
- Service Delivery, with civil society organisations specifically dealing with accessibility issues, vulnerable groups, and persons with disabilities (for indicator SD_P4_I1).

For selection of participants, purposive non-probability sampling was used, targeting CSOs with expert knowledge in the topics concerned.

INTERVIEWS WITH STAKEHOLDERS

Interviews were conducted to collect qualitative, focused, and in-depth inputs from stakeholders on monitored phenomena. For a few indicators, interviews are envisaged as data sources according to the indicator tables. Nonetheless, they were additionally used in the research to complement and verify otherwise collected data and findings.

Interviews were semi-structured, composed of set of open-ended questions, allowing for a discussion with interviewees and on-the-spot sub-questions rather than strictly following a predetermined format. Selection of interviewees was based on purposive, non-probability sampling, targeting interlocutors based on their expertise and relevance for the topic.

PUBLIC PERCEPTION SURVEY

The public perception survey is based on a questionnaire targeting the general public (aged 18 and older) in the entire Western Balkans. The survey was administered through combining computer-assisted web and telephone interviewing (CAWI, and CATI), using a three-stage, random, representative stratified sampling (primary sampling unit: polling station territories, secondary sampling unit: households, tertiary sampling unit: household member). It was implemented as part of the regional omnibus surveys in the Western Balkans during 5 May - 30 May 2020.

SURVEY OF CIVIL SERVANTS

Civil servants survey was implemented based on a unified questionnaire targeting civil servants working in the six Western Balkan administrations. The questionnaire was translated and adapted to local languages, and it consists of five sections covering: recruitment of civil servants, temporary engagements in the administration, status of senior civil servants, salary/remuneration, and integrity and anti-corruption. Data collection was conducted using a self-administered questionnaire on SurveyMonkey platform (web SAQ).

In Montenegro, the civil servants' survey was conducted from 25 June to 23 July 2020. In contrast to other countries in the region where the questionnaire for the survey²⁰⁰ was distributed centrally to civil servants by the authority dealing with PAR or IT development of the administration, this was not the case in Montenegro. Ministry of Public Administration refused to disseminate the questionnaire centrally to civil servants, despite the existence of technical preconditions for such an activity, claiming it is not within their jurisdiction to do so. Therefore, the researchers were forced to disseminate the questionnaire in a decentralised manner (i.e. by contacting and requesting dissemination from each individual ministry and other administration authority).

SURVEY OF CIVIL SOCIETY ORGANISATIONS

CSO survey results are based on a unified questionnaire targeting representatives of CSOs working in the entire Western Balkans. In this monitoring cycle, the questionnaire included 7 thematic sections covering:

- CSOs involvement in evidence-based policymaking,
- participation in policy- and decision-making,
- exercising the right to free access of information,
- transparency of decision-making processes,
- CSO's perceptions on government's planning, monitoring, and reporting on its work,
- integrity of public administration, and
- the accessibility of administrative services.

Data collection was conducted using a self-administered questionnaire on SurveyMonkey platform (web SAQ).

200 See the methodological annex for details about the distribution and sampling of the survey.

