



MONTENEGRO - FRONTRUNNER LAGGING BEHIND

RESULTS OF THE REGIONAL PUBLIC ADMINISTRATION REFORM MONITORING

institut alternativa

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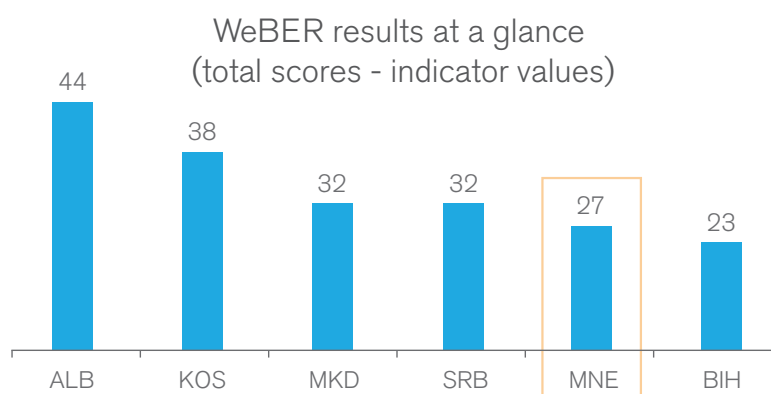


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According to the overall assessment of the progress in public administration reform in the Western Balkan done within the WeBER project¹, Montenegro is far from being the regional frontrunner. Total number of points awarded in all six areas of public administration reform classify Montenegro as fifth out of six countries, with only Bosnia and Herzegovina having a worse score. The best results that Montenegro achieved are in the area of strategic framework of public administration reform, while it fared the worst in the area of public finance management.



Strategic framework of the Public Administration Reform

Strategic framework of the Public Administration Reform is 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, the PAR Council, as well as greater level of formal compliance in practices of consultations with the public in preparation of some of the key PAR-related documents, than in other countries of the region.

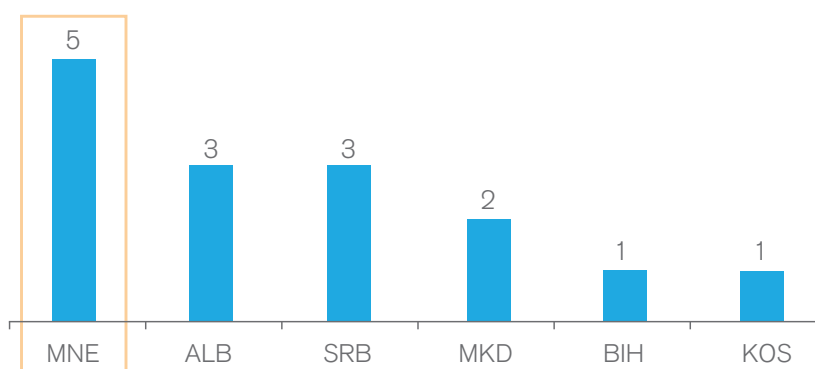
¹ WeBER regional report, detailed national report for Montenegro as well as regional database of all indicators and results are available at the website of Institute Alternative (www.institut-alternativa.org) as well as WeBER resource website (www.par-monitor.org).

The level and intensity of consultations with CSOs in the preparation of PAR-related strategic acts (PAR Strategy, Public Finance Management Reform Programme (PFMRP) and the Information Society Development Strategy) was varied - mostly focused on the PAR Strategy, the least on PFMRP. Besides the activities of the administration, this was also due to the level of interest among CSOs for particular documents.

For 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, 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, administrative structure for PAR coordination in Montenegro does not include representatives of CSOs, while at the political level, PAR Council does. Formal conditions of the Council's work are commendable, particularly compared to similar bodies in the region. However, when it comes to the actual role and substantial contribution that the PAR Council plays in steering and driving the reform, the results are much less impressive. The impact of the Council on the key PAR processes as well as its substantial contribution to the documents it discusses is assessed as negligible. Its conclusions are mostly of technical nature and it chose to have no part in the debate around key legal acts that are essential for PAR.

Regional results for all indicators in the area of Strategic framework of the Public Administration Reform



Policy Development and Coordination

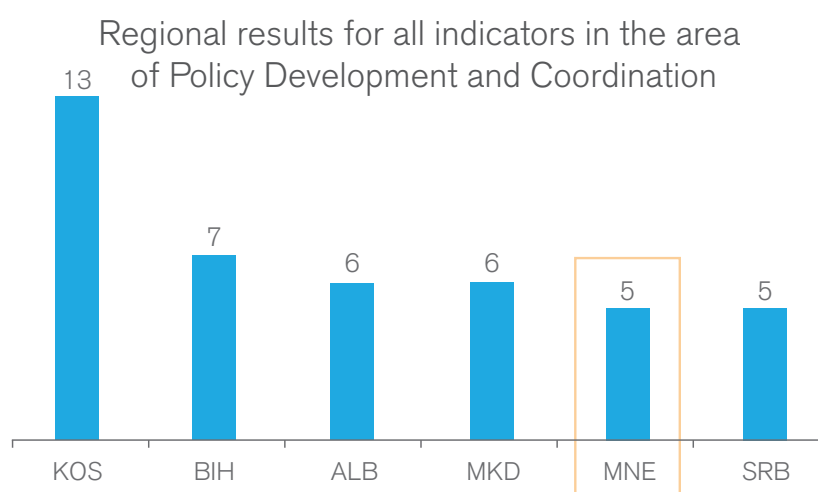
Government's policy-making is insufficiently transparent and resistant to participation of public. While information about Government's activities is published on regular basis, the public has no access to any kind of documentation about the work Government's four working bodies (commissions). Quarterly reports on the work of Government provide only a dry numerical overview of normative activity, entirely devoid of any qualitative as-

assessments or information about the impact or performance of the Government's work. Only a half of the reports on central planning documents implementation are available online.

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 was declared classified is discussed at the session, the public cannot know that it was discussed at all, as even its title is absent from the published agenda. This is particularly problematic having in mind Government's puzzling practice of declaring even some decisions on budget reallocations as classified, as well as other important acts that the public cannot know that they were discussed at all. CSOs in Montenegro have a very critical view of how the Government agenda is reflected in reality - 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.

CSOs in Montenegro have consistently the most critical view in the region of the way the public consultation procedures are set up and implemented. Public consultation processes are often not conducted for important legal proposals and strategies, while receptiveness for citizen proposals is at a low level. Feedback procedures lacking in substance, with authorities often not publishing a report from consultations or responding to comments en masse. Very few CSOs (4,6%) in Montenegro report that their inputs were accepted by the relevant ministries, while a majority (67,5%) state they rarely or never receive feedback to inputs submitted within the public consultation process. Furthermore, in the region, it is the CSOs in Montenegro that claim they receive the least feedback on their proposal while working in working groups. Perception of CSOs signals that civil society is still not recognised as valuable source of evidence among policy making institutions at the central level, with frequency of referencing CSOs findings in Government's policy and strategic documents at very low level.

When it comes to accessibility of legislation, major problem with the work of Official Gazette is the commercialisation of consolidated versions of legal texts. They are available only to paid subscribers, with access being charged even to other state institutions. Furthermore, formal procedure and responsibility for preparing consolidated versions of legislative acts is not regulated at all.



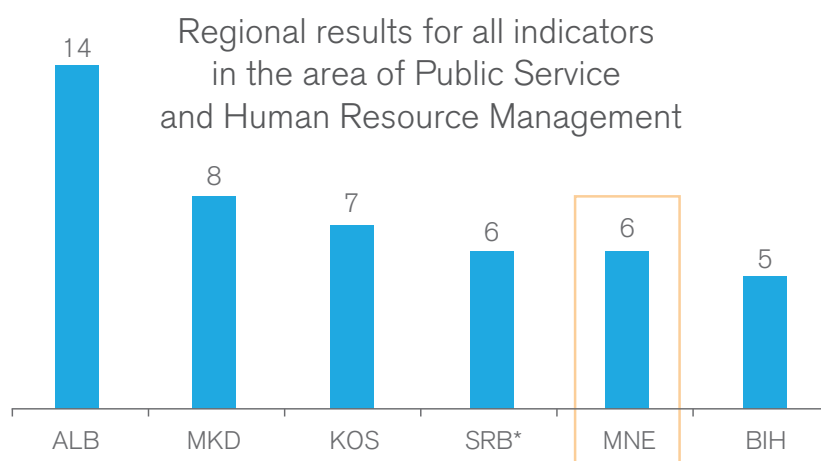
Public Service and Human Resource Management

A number of issues related to lack of transparency and accountability were registered in the monitoring of indicators in the area of public service and human resource management. During the monitoring phase, new Law on Civil Servants and State Employees was adopted and came into force, so both the old and the new law were analysed in different aspects of the indicators.

Availability of data on the public service in Montenegro is 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 also does not have data on the number and structure of staff engaged on temporary contracts outside of the scope of civil service law, nor on the gender structure of the public service. De facto civil service annual report, the Human Resource Management Authority's annual report, does not cover areas such as career development (promotions and demotions), salaries/wages, corruption/integrity issues and measures, disciplinary procedures and decisions, professionalisation and depoliticisation.

The number of temporary engagements in the central state administration is not limited by law. Although the Law states that the same recruitment procedure applies to fixed-term contracts employees, as well as in the general employment, there are exceptions in recruitment done outside of this law, and therefore without an open and transparent procedure. Legal limitations to duration of fixed-term contracts do exist, but are too flexible and allow for other laws to extend the deadlines.

A half of senior-level appointments in the monitoring period were conducted without a public competition procedure, but even when they were done, the Government is not obliged to appoint the first-ranked person. Its Commission for Personnel and Administrative Issues, whose work is completely out of public eye, has vetting competencies in regards to appointments, not foreseen in the Law on Civil Servants and Employees. There is a tendency of extending the mandate of acting senior managers beyond the legal limitation of six months by simply adopting a new decision regarding the same person after the current one expires. The analysis of the legal framework and the sample of recruitment announcements shows a number of unreasonable barriers for external candidates, both in the old law and the one that is currently in force.



* Although the values of indicators are the same, Serbia scored 41, while Montenegro scored 38 points.

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

Accountability

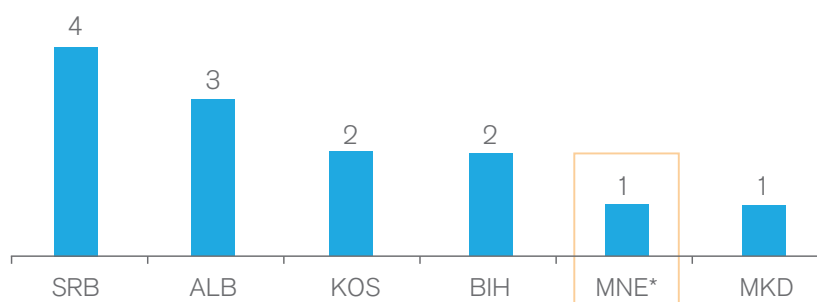
In the area of accountability, Montenegro is well behind other countries in the region, sharing the last place with Macedonia based on the overall scores for two indicators. Civil society perception of the quality of legislation and practice of access to public information reveals considerable problems.

Only around a fifth of NGOs perceive that the administration is recording and documenting sufficient information for exercising the right to access to information. 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 law and applied in practice. Deadlines for answering a FOI request are most often broken in Montenegro, where NGOs also perceive to be paying the most for accessing the information.

NGOs were especially and consistently critical about the work of the Agency for Personal Data Protection and Free Access to Information, supervisory institution for FOI whose work is assessed as the poorest 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 about the effectiveness of its soft measures and sanctions.

When it comes to proactive publishing of information, monitoring revealed problems extending beyond non-compliance to legal requirements in this area. Information on lines of accountability of the institutions is completely lacking. 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

Regional results for all indicators
in the area of Accountability



**Although the values of indicators are the same, Montenegro scored 16, while Macedonia scored 11 points.*

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. Organigrams presenting the structure of institutions are not available in a majority of cases, and when they are, they are not updated to the latest version of the institution's rulebook on organisation and systematisation.

Most of the key documentation observed 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. Save for Ministry of Finance, none of the observed institutions has published any databases in machine-readable formats (individually or at the open data portal).

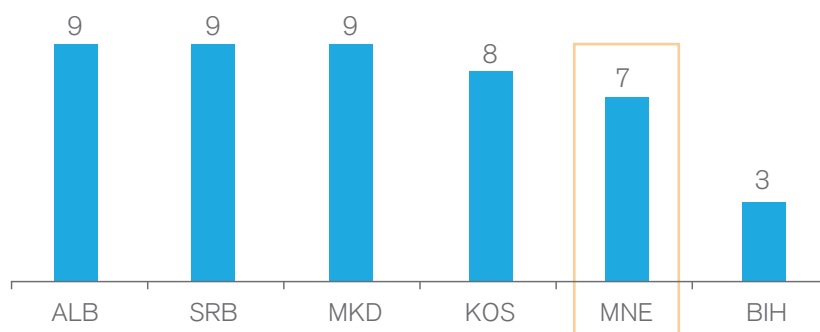
Service delivery

The percentage of citizens who think that dealing with the administration has actually become easier in the past two years is only 38%, which is the second worst result in the region (only in BiH is the result worse). Also, although a majority of respondents in Montenegro (41,5%) think that the time needed to obtain administrative services has decreased in the past two years, this is lower than the regional average for this question (45,5%). Additionally, only a third of Montenegrin citizens are aware that e-services are even offered in Montenegro.

Almost a third of respondents (31.3%) state that they have the opportunity to give an opinion about the services they receive from the administration, while majority of them claim that the feedback mechanisms are easy to use. However, research showed that out of the 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. Among else, only 2,6% of surveyed CSOs think that administrative service provision is adapted to

Regional results for all indicators in the area of Service Delivery



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. Additionally, 5,2% of CSOs think that channels for accessing administrative services are easily accessible for vulnerable groups.

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

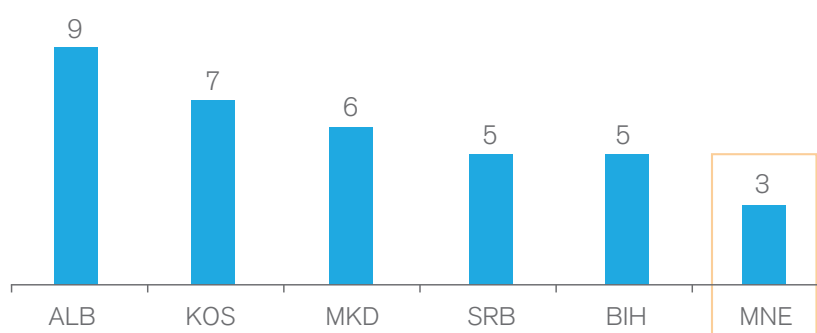
Availability and transparency of key budgetary documents in Montenegro is limited. There is no dedicated website section where enacted budget laws (and their amendments) as well as execution reports can be accessed on place. Monthly or any kind of in-year budget execution reporting by the Ministry of 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, the only official attempt being the outdated and incomplete visualisation of the 2014 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 developed. SAI does not have a separate communication strategy, but does have some broad communication goals within the broader development strategy. Regarding personnel for communication with external stakeholders, situation is better

on paper than in practice, as 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. SAI's reports in an overwhelming majority do not contain what can be assessed as a citizen-friendly summary. 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.

Regional results for all indicators in the area of Public Finance Management



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