FONDACIJA ZA OTVORENO DRUŠTVO, SRBIJA
OPEN SOCIETY FOUNDATION, SERBIA

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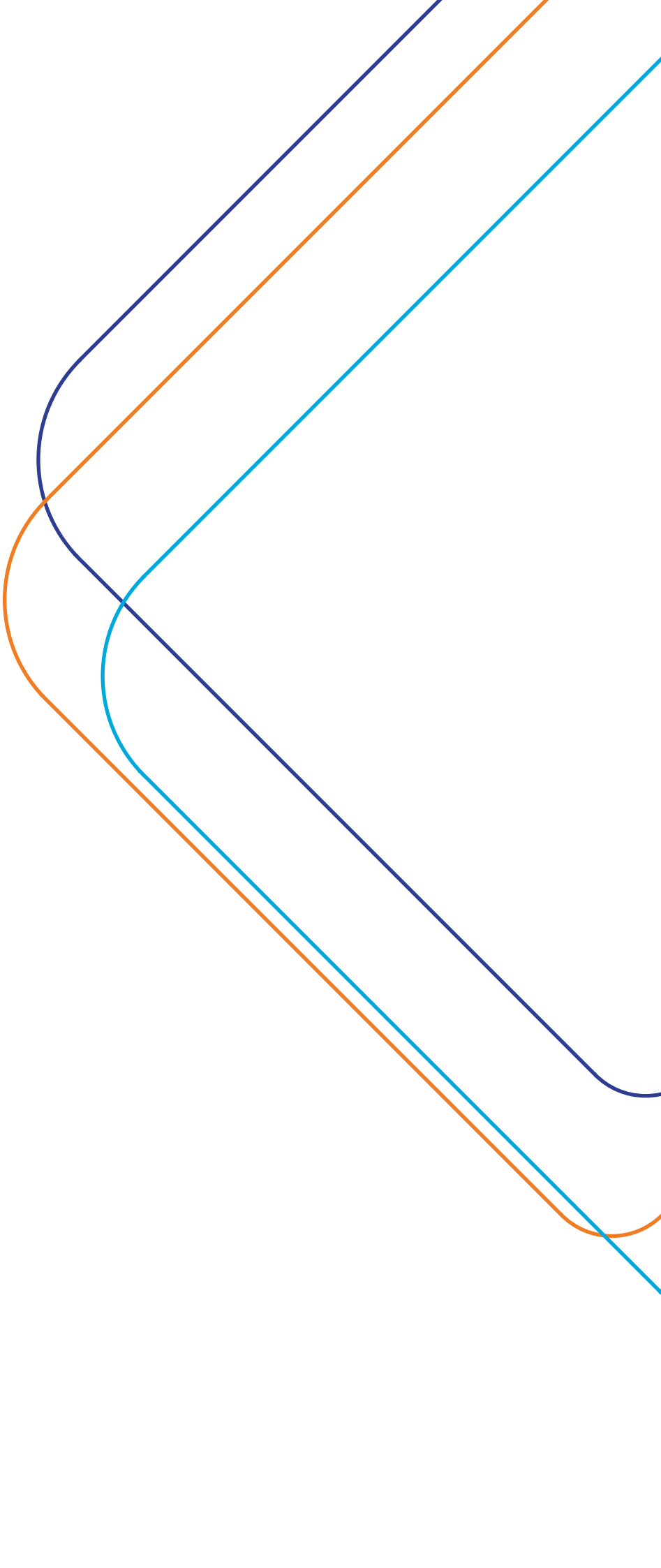
PAR PRINCIPLES MAINSTREAMING IN SECTORAL POLICIES

WESTERN BALKAN OVERVIEW REPORT

WeBER 2.0
Western Balkan Civil Society Empowerment for a Reformed Public Administration



PAR PRINCIPLES MAINSTREAMING IN SECTORAL POLICIES WESTERN BALKAN OVERVIEW REPORT

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I. PURPOSE AND APPROACH OF THE PAR SECTORAL MAINSTREAMING

I.1 What is PAR mainstreaming and why we are piloting it?

Public administration reforms (PAR) in the Western Balkans (WB) are at present thoroughly and regularly assessed against the Principles of Public Administration, developed jointly by the European Commission and SIGMA/OECD.[1] These principles provide a roadmap for horizontal functioning of the administrative systems, and their importance is seen through the EU accession process. That is their implementation is crucial for successfully completing the accession negotiations in the domain of good governance.

In order for an administration to function on the basis of principles of good governance, its sectoral institutions need to equally embed those principles in their functioning across all segments of operation – development of policies, management of human resources, provision of information to the public, service delivery and public finance management. In a way, Principles of public administration need to be "mainstreamed" into the functioning of each institution of the administration. In this context, "sectoral mainstreaming" means no more than effective implementation of these principles by all civil servants and all institutions.

Yet, the way in which the SIGMA/OECD programme performs regular assessments of PAR in the region cannot ensure a thorough investigation into the application of the Principles in all individual policy areas, such as employment, education, or environmental protection to name a few, and in the practices of sectoral institutions. While SIGMA's method does in some cases analyse selected samples from sectoral institutions, those samples provide only for a glimpse into the functioning of the individual administrative institutions. At the same time, civil society organisations working on sectoral policies usually focus their analyses and policy monitoring efforts on the technical aspects and contents of their areas of interest, while the quality of institutions' functioning and application of Principles of good administration is normally left out of such analyses. As a result, little external scrutiny of the sectoral institutions has taken place in regards to how well they operate and to what extent they uphold these principles of major significance for the quality of life of citizens and for the EU integration process.

The WeBER 2.0[2] pilot exercise in monitoring PAR mainstreaming in sectoral policies aims to help in filling this void, by building bottom-up, civil society pressure for good governance principles to be embedded in sectoral policies. At the same time, it also aims to stimulate sectoral institutions in countries in the region to think more proactively about implementing the Principles into their policies and daily practices. Through this initiative, the WeBER has focused on the following:

1 SIGMA/OECD, "The Principles of Public Administration", OECD, 2017, available at: https://www.sigmaweb.org/publications/principles-public-administration-eu-candidate-countries-and-potential-candidates.htm. SIGMA is a joint initiative of the OECD and the EU, principally financed by the EU.

2 "Western Balkan Civil Society Empowerment for a Reformed Public Administration" or WeBER2.0, is the three-year project implemented by six organisations from the Western Balkans (WB), members of the Think for Europe – TEN Network, more information available at: https://www.par-monitor.org/about-weber/.

- Developing tools for civil society monitoring of PAR mainstreaming in sectoral policies
- Training selected CSO experts to apply those tools
- Piloting the monitoring work on selected sectoral institutions the Western Balkan region.

I.2 Main principles behind PAR mainstreaming approach and methodology development

Civil society perspective: The main principle that has guided the development of the monitoring methodology is the civil society perspective. In line with the overall WeBER approach, that empowering local actors – civil society organisations, to demand and influence PAR in their respective countries is one the key prerequisites for reform sustainability, WeBER team relied on civil society views and knowledge when designing the PAR mainstreaming approach. Thus, the draft methodology for piloting monitoring exercise was collaboratively designed within WeBER research team, which was subsequently shared and consulted for improvements with the wider civil society in the region through the WeBER Platform.[3] In addition to the region's civil society, extensive and invaluable support in the methodology design came from other key important WeBER partners, including PAR authorities in the WB region, DG NEAR and SIGMA/OECD.

EU accession requirements: The Principles of Public Administration have been applied as the guiding monitoring standards for the PAR mainstreaming. The rationale for relying on the EU-SIGMA framework corresponds to the wider rationale of the WeBER initiatives, in that these Principles represent the common denominator for PAR in the EU accession process of the countries in the region.

Simplicity of the PAR mainstreaming monitoring tools: The design of methodological framework was guided by the idea that not all the Principles, or their specific aspects, can or should be monitored from the start, especially considering that this work is a pilot exercise. For this reason, methodological tools for monitoring PAR mainstreaming have been developed as "checklists", meaning that for each PAR area the WeBER team defined a limited number of requirements that correspond to specific SIGMA Principles. Focus was placed on those principles where relevance for civil society and wider public interest is the highest, such as principles relating to openness and transparency of policymaking, provision of information to the public by the institutions, transparency of recruitment procedures for the civil service jobs, etc.

Start small – Case study approach: Connected to the previously mentioned simplicity, this pilot exercise starts by analysing one checklist per institution. A total of 18 institutions were selected across the region (3 sectoral institutions per country). As this type of analysis of PAR mainstreaming in sectoral policies is a new endeavour for the CSOs in the region, the entire pilot exercise takes a case-study approach, which means that no regional or country comparisons can be made. Rather, each sectoral analysis tells a story of its own, applicable to the specific institution it refers to and providing specific recommendations for the future functioning of that institution. Work is primarily based on qualitative data collection, although for certain PAR areas quantitative data are collected and analysed, too.

I.3 Selection of priority sectors

The monitoring methodology applies the EU' "sectoral approach" as the backbone for defining and selecting sectoral policies. The sectoral approach provides common definitions of sectors for all countries that are beneficiaries of the pre-accession assistance of the EU and is, therefore, a common denominator for all Western Balkan countries. The following sectors comprise the EU's sectoral approach:

- Democracy Governance, and Rule of Law and Fundamental Rights
- Environment and climate action
- Energy
- Competitiveness, and innovation
- Education, employment, and social policies

3 WeBER Platform, the regional civil society platform on PAR in the Western Balkans (WB), is the venue for dialogue of CSOs and governments. For Platform membership, please visit: https://www.par-monitor.org/members/.

- Agriculture and rural development and
- Regional and territorial cooperation
- Transport

Selection of policy sectors for the pilot exercise was performed in consultation with CSO members of the regional WeBER Platform, based on their expertise and experience. Finally, each organisation that joined the pilot exercise was allowed to select the sector and a main institution for the focus of its analysis.

I.4 Methodology in detail - checklist's design and content

There are six checklists in total, which follow five PAR areas defined by the SIGMA Principles. The first area of the Principles, Strategic framework for public administration reform (SFPAR), was excluded in the development of the monitoring methodology for PAR mainstreaming, as it does not directly translate to sectoral approach and focuses on the design and implementation of the horizontal PAR policies (such as PAR strategic documents, or strategies, programmes and plans for improving policymaking and regulatory process, provision of public services etc.). Since Public Finance Management is the largest PAR area, two checklists have been produced to cover budgetary policy and public procurement practices independently. It should be highlighted that checklists' templates are public and open documents, and that they may go through further amendments and finetuning based on the lessons learned from the pilot exercise.

Final checklists are defined as follows:

- Checklist 1 - Policy Development and Coordination
- Checklist 2 - Public Service and Human Resource Management
- Checklist 3 - Accountability
- Checklist 4 - Service Delivery
- Checklist 5 - Public Finance Management (Budget management)
- Checklist 6 - Public Finance Management (Public Procurement).

In the introductory part, each checklist begins with:

- Name of the PAR area (pre-defined)
- Chosen policy sector (*to be inserted by an assessor*)
- Lead ministry or institution for the specified sector (*to be inserted by an assessor*).
- Title of the relevant SIGMA Principle(s) and sub-principle(s) (*pre-defined*)

Due to application of the EU-sectoral approach, and quite a wide definition of sectors, more than one ministry or institution can be, in practice, responsible for a single sector. Therefore, selection of a lead institution, whose practices will be assessed for the purpose of implementing pilot monitoring exercise, was based on the choice of the assessors following a consultation with the WeBER team. The purpose of the checklists is thus adaptable to the preferences and needs of analysts and assessors who will be using them. Considering their focus on the practices of a single institution, they allow for localisation of responsibility for the recommendations issued on the basis of the assessment.

In the assessment part, each checklist is composed of four key methodological components:

Requirement

This field provides the formulations of requirements, i.e. the individual standards whose practical application is being assessed. The number of requirements varies between checklists, and their definitions as a rule stem from the stated SIGMA Principles.

Approach

Each requirement is followed by the definition of the assessment approach, which means a methodological elaboration of what needs to be analysed and how that analysis is to be performed. All necessary information for successful analysis and assessment of each requirement is stated in this field, such as definition of concepts, individual criteria, timeframes of analysis/observation, sample definitions, and data sources.

Another key part of the approach is the Assessment guideline – a guidance for assessors to determine the final assessment of a requirement (*see Final assessment field*). All checklists follow the same pattern in terms of the assessment guideline, providing guidance for the requirement to be fully met, partially met or not met.

Analysis

This field serves for the detailed presentation of the research and analysis outcome. The assessor fills it in providing qualitative or, where applicable, quantitative data and the findings that came as the result of the applied approach. The field provides basic guidance for the assessors on how to focus and structure their analysis, so that it covers all the relevant aspects of the requirement at hand. For the purposes of additional description, qualitative insight and enrichment of analysis, these instructions go beyond what is required in the assessment guideline. This also allows for specific practices or issues to be highlighted based on collected data and assessors' expert opinion. Assessors later write their report based on the results presented in the Analysis field within their selected checklist (using a separate, predefined report template).

Final assessment

This field is completed at the end, simply stating one of the three final assessment options in accordance with the assessment guideline contained in the Approach – "Requirement fully met," "Requirement partially met," or "Requirement not met".

Freedom of information list

Finally, each checklist at the very end provides a list of data that needs to be obtained using freedom of information (FOI) requests.

I.5 Outputs in the pilot phase

In this pilot phase, PAR mainstreaming initiative resulted in 18 regional case studies/sectoral analyses, i.e., three case studies per WB country. Cases studies were mainly produced by the assessors from the CSOs involved in the WeBER Platform. In addition to performing the research and analysis needed to complete the checklists, the assessors were asked to provide assessment reports using a predefined report template. Each assessor performed monitoring and analysis for the checklist their organisation selected as its first or second preference . Upon the finalisation of the assessors' work, this regional report was compiled based on all case studies, drawing on key lessons learnt from this pilot exercise.

II.
FOCUS OF THE PAR SECTORAL MAINSTREAMING PILOT EXERCISE

The monitoring in **Policy Development and Coordination** (PDC) area is performed against two SIGMA Principles.

> **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.*

The PDC checklist consists of 15 requirements that are monitored by analysing practices of developing three adopted policy and/or legal acts. Starting with practices of assessing policy impacts, the checklist looks at whether impact assessment documents adequately respond to questions set by regulations, whether they use credible information (quantitative and qualitative) that pertain to various types of impacts (social, economic, environmental, and gender impacts, if required). Furthermore, the analysis looks at whether policy options are defined when assessing impacts, as well as if cost analysis for such options is performed. Lastly, in the part related to impact assessments, it is examined whether monitoring and evaluation mechanisms for measuring policy performance are developed.

When it comes to inclusiveness of policy design, this checklist assesses whether consultations have been held in the process of developing sample acts, from the early phases, whether all relevant stakeholders were included from the start, and whether the responsible institution has taken their comments and suggestions into consideration. Moreover, it is separately assessed if produced drafts of policy proposals undergo public debates (discussion, public consultation) as well as if invitations to such debates include all relevant information and how widely they are disseminated. Monitoring continues with analysing how much time participants in public debates have for preparation and submission of inputs, if detailed public consultation reports are published, and, finally, to what extent the inter-ministerial coordination, which usually takes place only after the public consultation process, results in further changes to the draft act produced on the basis of the consultation.

In this checklist, the focus is entirely on the practices in the development of the last three policy documents and laws adopted in the period preceding the assessment. For data collection, approach to this checklist relies on publicly available evidence available online, from websites of the assessed institution, relevant centre-of-government bodies, and public consultation portals, but also on filing of FOI requests for all documents that are not available online. Additionally, interviews with participants in consultation processes and with representatives of assessed institution are conducted, to complement available evidence or to get first-hand insights necessary for the final assessments.

In the area of **Public Service and Human Resource Management** (PSHRM), monitoring is performed against SIGMA Principle 3.

> **Principle 3:** *Recruitment of public servants is based on merit and equal treatment in all its phases.*

The PSHRM checklist consists of six requirements that pertain to the key elements of recruitment process based on public competitions for civil service jobs. It starts with monitoring practices of assessed institution in advertising vacancies for filling in civil service positions and looks at whether potential candidates are given reasonable amount of time to apply. The checklist further assesses the composition of selection committees by analysing whether every committee member meets certain standards of professionalism and impartiality. When it comes to selection committees' decisions, it is assessed whether they are transparent and if they contain information about the results achieved by all eligible candidates who participated in the recruitment process. Finally, the monitoring focuses on the final outcomes of all analysed recruitments based on public competition, by determining if the best-ranked candidates get the jobs in practice. In case of annulled recruitments procedures, the checklist inquires whether the reasons behind the annulments are made publicly available.

In terms of data collection, the approach to this checklist relies on the review of the website of the assessed institution, the central portal for all recruitments in the public administration (if such a portal exists), the website of the national employment agencies and the social media accounts of the assessed institutions. Moreover, the data collection approach foresees filing of FOI requests for all documents that are not available online. The timeframe of analysis covers recruitment practices based on the public competitions conducted within the last calendar year (or the previous year if there were no public competition announcements during the last calendar year).

The monitoring in the **Accountability** area is performed against SIGMA Principle 2.

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

The Accountability checklist comprises seven requirements that pertain to the practice of reactive and proactive information provision. Reactive information provision pertains to that which is based on FOI requests, while proactive informing usually takes place through the website of the assessed institution. In the area of reactive informing, requirements consider whether the assessed institution meets legal deadlines when responding to FOI requests, whether contents of such responses correspond to what was requested (based on a sample), and whether the assessed institution as a rule provides responses free of charge. Finally, the checklist looks at whether all interested parties can easily access a "frequently asked questions" section on the website of the responsible institution, providing useful and citizen-friendly guidance or tips for requesting information.

In the domain of proactive informing, the Accountability checklist seeks to determine if the responsible institution makes information on contact person(s) for FOI easily accessible online. It also inquires whether all the basic information about the institution's work is available for public scrutiny, which includes policy and legal acts, public services offered, annual reports, budget, general contacts, and organisational charts. Lastly, it is examined whether any practices of proactive disclosure of datasets in open formats exist, and if yes, how regularly the institution publishes open data.

To collect data for the analysis, the approach to this checklist relies on the review of the website of the assessed institution, as well as of the centralised governmental open data portal. It also requires sending FOI requests where necessary (for example, to determine the total number of FOI requests submitted to the responsible institutions in the observed period as well as its responses). Depending on the requirement within the checklist, the timeframe of analysis covers either the practices found at the moment of assessment (mainly for proactive informing), or a 12-month-period preceding the assessment (for determining how the institution deals with FOI requests).

The **Service Delivery** (SD) area is monitored on the basis of two SIGMA Principles.

> **Principle 3:** *Mechanisms for ensuring the quality of public services are in place.*
>
> **Principle 4:** *The accessibility of public services is ensured.*

The SD checklist includes 8 requirements that pertain to the possibilities for service users to voice their opinion about the quality of sector-specific administrative services, data transparency and accessibility, and practices of electronic service provision. Specifically, when it comes to sending feedback on obtained services,

assessors must examine whether channels for provision of citizen feedback are embedded in the website of the service provider or in the governmental service delivery portals. It is also necessary to determine if the submitted feedback is made public. In relation to accessibility of services, the checklist examines whether the responsible service provider ensures conditions for vulnerable and marginalised population to easily obtain services they need, and whether there are at least two options for accessing them (digital, and in-person). In addition, monitoring focuses on whether practice of collecting and publishing data on accessibility exists (such as statistics, analyses, reports or similar). Electronic service provision is further analysed for the purpose of determining the level of presence and development of e-services (based on the four-tier classification by the United Nations). Finally, the last requirement looks at whether the practices of publishing open data related to service provision are established, and how regularly open datasets are publicly disclosed for further (re)use.

The approach to data collection for this checklist relies on the review of the website of the assessed service provider, the governmental portals for centralised service delivery, e-services, and open data, but also on filing of FOI requests for all documents that are not available online. Depending on the individual requirement, the timeframe of analysis covers the practices found at the time of the assessment, while when it comes to availability of specific data on accessibility and citizen feedback assessors look at the period of two years preceding the assessment.

The monitoring of **budget management practices, within the Public Finance Management** (PFM) area, focuses on the selected sub-principles of SIGMA's Principle 5.

> **Principle 5:** *Transparent budget reporting and scrutiny are ensured.*

The PFM checklist on budget management contains 6 requirements that pertain to different aspects of transparency of budget implementation and reporting. Requirements focus on data transparency regarding sectoral spending (in-year, or annual reporting), and its comprehensiveness in terms of budgetary classifications used, on availability of reporting on capital (investment) projects, and on programme budget implementation. When it comes to programme budgeting practices, the checklist also looks at whether the assessed institutions adequately define targets, as a prerequisite for meaningful and performance-oriented reporting.

Regarding data collection, this checklist relies on review of the website of the assessed institution, as well as of the ministry responsible for finance, as well as on filing of FOI requests for all documents that are not available online. The timeframe of analysis covers budget transparency and reporting practices for the ongoing year at the time of assessment, or previous two calendar years, depending on the requirement.

Finally, monitoring of **public procurement practices, within the PFM area**, is performed against SIGMA Principle 13.

> **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.*

The PFM checklist on public procurement consists of 7 requirements that pertain to transparency and competitiveness of public procurement practices of an assessed contracting authority. Firstly, requirements focus on public procurement planning – availability of up-to-date plans, as well transparency and justification of their amendments. In addition, using a sample of procurement procedures, the assessors are to check whether the contracting authority adheres to these plans, i.e. if it launches public procurement procedures as scheduled. Secondly, the checklist analyses the competitiveness, transparency and openness of public procurement procedures for interested suppliers. It does so by checking whether open and competitive procurement methods constitute the most frequently used option in practice, and by determining the number of bidders in the procedures based on these methods within the observed period. Finally, the last requirement considers whether there is a transparent and comprehensive annual reporting practice, that encompasses all conducted public procurements planned within a calendar year.

To collect the necessary data, similarly to others, this checklist also relies on the review of websites of assessed contracting authority, government-sponsored public procurement portal. Filing of FOI requests is also necessary to obtain the documents that are not available online. The timeframe of analysis covers public procurement practices for the ongoing year for certain requirements, while for others the calendar year preceding the assessment, or both years, are analysed.

III.
LESSONS FROM THE PILOT EXERCISE

During the 9th WeBER Platform meeting, held in Tirana on 7-8 June 2022, assessors who performed the pilot monitoring presented and discussed the lessons learned from the implementation process. While there was no specific feedback or suggestion on the scope or quality of the monitoring approach, checklists' structure, or the individual criteria (draft methodology checklists had been sent for comments to the WeBER Platform members in the development phase), the assessors did share valuable insights that came as the result of the application of the methodology in practice. These insights are grouped around three broadly defined topics, that mostly pertain to difficulties encountered during the process, and observations for the future.

Applicability of sectoral approach to specific institutional arrangements or competences

The sectoral approach proved to be challenging to apply in specific institutional settings in Bosnia and Herzegovina. Most notably, the complexity of state organisation which contributes to the fragmentation of institutional competencies and obligations, has made sectoral analysis difficult. Although it is still possible to analyse sectoral institutions from the PAR perspective, the assessors were of the opinion that the results of such analysis will be incomplete and provide only a partial picture if it focuses on a single institution. For example, the Ministry of Civil Affairs, whose public procurement practices were subject to monitoring within the education sector, only performs basic purchases, such as office supplies, whereas sector-related public procurements are carried out by ministries at lower levels of government, or other responsible institutions.

In addition, although envisioned and designed for analysing practices of a single institution, i.e., the lead institution in terms of overall competencies in a chosen sector, one of the lessons learned is that a strict focus on a single institution does not fully uncover how PAR principles are embedded in practice. Instead, in some areas, or their specific aspects, observation of more than one institution is either useful, as it complements the assessment, or necessary, because two or more institutions share responsibilities. In this pilot monitoring, one such example of shared responsibilities was for the Regional and Territorial Cooperation sector, where there are the two responsible agencies in Albania - Albanian Development Fund, and Prime Minister's Office. In other examples, sporadic reflections on the practices of bodies subordinate to line ministries, as was the case with the practices of the Labour Inspectorate, and the Environmental Protection Agency in Serbia, provided added value to the monitoring findings and the final assessments for the chosen sectors.

Timeframe for monitoring the application of PAR principles in individual policy sectors

Additional feedback from the assessors concerned the timeframe for monitoring the institutions' practices. Specifically, for those practices that can vary in number between institutions, such as number of received FOI requests and their handling by the responsible institution within a given period, the responsible assessors found that their analyses could have benefited from an extended timeframe of observation, and thus a larger number of sample requests. This would potentially allow for formulation of recommendations that are based on a more solid body of evidence.

Moreover, as anticipated during the design of checklists, a large part of the data necessary for the analysis and assessment was dependent on preparing and sending FOI requests beforehand. Although the list of information to be requested was prepared ahead of the pilot monitoring, due to different procedures and deadlines for official responses, as well as occasional needs to submit additional, unplanned requests, one of the lessons is that an extension of the timeframe for conducting the research would be useful (assessors performed pilot monitoring exercises and drafted reports from 15 March 2022 to 30 July 2022).

Cooperativeness of institutions and access to information

Finally, the assessors frequently reported that their FOI requests were met with administrative silence, or that the responsible institutions were slow in processing them. In some cases, they postponed the date of providing the requested information, while in other cases the necessary information or data was simply non-existent (i.e. not produced or recorded by the administration). Such problems had a strong impact on the quality of the monitoring outcomes in several cases. These limitations are not limited to the sectoral approach and the WeBER team has frequently encountered them in the general PAR monitoring over the past years. Yet, in the implementation of this pilot exercise, they have indeed raised the question of a necessity to follow through the entire FOI procedure, all the way to the appeals instance. In that sense, this lesson should be taken onboard together with the previous one on reconsidering and extending the timeframe for the performance of the analytical work.

IV.
EXAMPLES FROM THE PILOT EXERCISE

In total, 18 pilot monitoring exercises (case studies) have been carried out, three per each Western Balkan administration. Done for the chosen PAR area and policy sector, based on the EU approaches, the monitoring work zoomed in into practices of central administration institutions, mostly ministries but also other responsible government agencies and offices. All case studies are published as individual monitoring reports, providing detailed overview of monitoring approaches as well as of outcomes of implemented monitoring work. In the following sections, summary reviews of 11 such case studies are presented, highlighting in brief the main results and where needed obstacles or advantages in the application of sectoral approach to PAR monitoring.

IV.1 POLICY DEVELOPMENT AND COORDINATION

CASE STUDY 1

Sector: Environment and Climate Action Sector
Institution: Ministry of Environment, Spatial Planning, and Infrastructure of Kosovo
Assessor: Demush Shasha, European Policy Institute of Kosovo

Kosovo's efforts at structured impact assessment and consultation processes started with the Government Rules of Procedure in 2011. Since then, an impact assessment system, implemented through concept documents, is in place for the whole of the government, including extensive guidelines and formats for use of assessment tools. Likewise, a consolidated system for consultation is in place, with clear guides on internal and public consultations. A special regulation on public consultations is in place, as is an online platform.

Generally, as is the case with all the other Western Balkans' countries, Kosovo is at an early stage in making proper use of the regulatory impact assessment tools when designing public policies.[4] This is also true in the environment sector, looking at the three sample documents - latest concept documents on strategic environmental assessment, climate change and residential energetic performance.

Some of the main strengths identified regarding the impact assessment in the environment sector in Kosovo, have to do with the efforts by Kosovo's Ministry of Environment, Spatial Planning, and Infrastructure (MESPI) to consistently use the legal requirements in designing concept documents. Moderate success has been noticed in making use of the problem analysis as well as objectives setting, while designing the mentioned concept documents.

4 For a detailed account, please refer to: SIGMA, 2021, Regulatory Impact Assessment and EU Law Transposition in the Western Balkans.

Yet, major challenges have been identified in the use of quantified data during problem analysis and when presenting impacts. Furthermore, options appraisal is still insufficient, and the capacity for this is still very limited. In addition, efforts at gender equality impact assessment are also inadequate, while costing and use of success indicators is sporadic. Also, none of the analysed concept documents sets out clear monitoring and evaluation arrangements.

On the other hand, when it comes to the consultation processes, some of the main strengths noticed during this exercise are related to the moderately consistent use of the relevant regulatory framework as well as efforts to consider and respond to all inputs. However, one of the greatest weaknesses identified in the consultation process is the especially low engagement of government and non-government stakeholders during the policy design process. In addition, challenges have been identified while selecting consultees (especially non-governmental ones), due to inconsistent use of the methodologies as suggested in concept document guidelines. Moreover, the efforts on the part of the MESPI have not always been proactive in informing the relevant stakeholders on the availability of the drafts for written input. Also, public meetings at the start of the work on these concept documents have not been organized, and the quality of the public consultation reporting is still insufficient.

Hence, it is advisable that MESPI undertakes further efforts to strengthen impact assessment, especially in terms of using the relevant methodological frameworks, but also by increasing the capacities in use of quantified data, use of options appraisal methods, as well as in providing implementation arrangements, including costing and planning. In addition, serious efforts should be taken in presenting monitoring and evaluation elements, while developing concept documents in the environment sector.

With regards to the consultation processes, it is recommended that MESPI undertakes further efforts to ensure heightened levels of engagement, especially by non-governmental stakeholders, improve the use of stakeholder selection methods, as well as use proactive ways to inform the consultees during the policy design stage. Finally, further efforts are to be made in ensuring compliance with the public consultation legislation, especially when it comes to the organization of public meetings with all relevant stakeholders at the start of the policy design phase.

CASE STUDY 2

Sector: Regional and Territorial Cooperation
Institutions: Albanian Development Fund and Prime Minister's Office of Albania
Assessor: Elda Zotaj, European Movement Albania

The report analysed the policy development and coordination process for the regional development and cohesion policy (RDC) in Albania. There are two institutions that are responsible for the RDC in Albania: Prime Minister's Office (PMO), specifically the Deputy Prime Minister Office), and Albanian Development Fund (ADF), an institution established in 1993. To assess the policy development and coordination requirements, three legislative sample acts were analysed:

1) Law no. 102/2020 on "Regional Development and Cohesion"

2) DCM no. 459, 30.07.2021 "On defining development regions in Albania and their boundaries"

3) Draft Policy for Regional Development and Cohesion.[5]

A set of interviews and direct communication has been conducted with the representatives of ADF and the PMO. Through this direct communication, the procedure of drafting and implementing the legislation under

5 As ex-ante process was ongoing the authors could not access all the documentation (draft policy document and explanatory note) due to the refusal of responsible institutions. In this regard, the only document that has been considered for the assessment was the Policy Paper for Government's Consideration "Advancing Albania's economic potential; 2021-2027".

the RDC policy has been clarified and needed documents and data, not publicly available, have been retrieved for a thorough and comprehensive analysis of the chosen legislation.

In general, it is concluded that some challenges have been identified when it comes to policy development process. First, the RDC policy in Albania is a new field, and only in recent years it has been institutionalized and formalized. The Law on RDC was adopted in 2020, while the process of adoption of bylaws is still undergoing and not finalised yet. Second, the institutional framework is only now taking shape as there are several actors that are involved in the process. As PMO and ADF are the main institutions for policy development in this field, it is relevant to mention that the coordinating institution for negotiating Chapter 22 of the EU Acquis is neither PMO, nor ADF, but the Ministry of Interior (MoI). That has taken over the task of coordinating this chapter from the Ministry for Europe and Foreign Affairs. Thirdly, as the process of the drafting and adoption of the legislative package started in 2018-2019, Covid-19 related implications have affected this process tangibly, most notably consultation processes, as the second round of the consultation process for adopting necessary bylaws was expected to be concluded during the first semester of 2022.

When it comes to the final assessments, it is concluded that out of 15 requirements in this area, a single one of requirements fully met, 8 requirements are partially met, and 6 requirements not met**.** Issues related to the policy development process include the following: i) all the relevant documentations is not publicly available or easy to access, ii) the gender perspective is completely missing, iii) the impact assessment does not comprehensively take into consideration relevant data to inform the policymaking process, iv) the budgeting and costing of the draft laws does not take into consideration the long- and short-term impacts, and v) marginalized and vulnerable groups are not involved in a comprehensive and tangible way in the consultation processes.

On the other hand, in this case study, several positive practices are underscored as well: i) mandatory documentation, as stipulated by the legal provisions, is prepared in the development of legislative acts, ii) all steps in consultation processes are followed as legally required, iii) during the consultation processes, there is an involvement of target groups that will be directly affected by proposed legislative acts and these represent a diverse range of sectors (civil society, business community, universities) and public institutions, iv) the institutions had shown a strong will to continue with the consultation and public discussion on the draft laws despite the difficulties faced by the Covid-19 pandemic. Despite the delay, the consultations were finalised using online or hybrid formats, in order for the process to go on and to not be stopped.

.IV.2 PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

CASE STUDY 3

Sector: Environment and Climate Action Sector
Institutions: Ministry of Environment and Physical Planning of North Macedonia and State Environment Inspectorate
Assessor: Kristina Dimovska, Community Development Institute, Tetovo

This case study focused on the employment of administrative servants in the environment sector, that have been completed in 2021. The scope was limited only to those employments filled through public call for administrative servants, for which the procedure has begun and finalized in 2021. More specifically, the analysis focused on two public calls for employments, one in the Ministry for Environment and Physical Planning, and one in the State Environment Inspectorate. While the former institution had vacated 9 positions to be filled by 11 administrative servants, the latter had vacated 2 positions for 2 administrative servants.

Most of the data was obtained through FOI request submitted to the two institutions and to the Agency for Administration, as the institution responsible for conducing the selection procedures. The findings indicate that information about public competitions is made broadly publicly, as per the legal requirements. Candidates are provided with sufficient time to prepare and submit their application via the online application tool at

the website of the Agency for Administration. While the composition of selection committees is assessed as professional, with adequate representatives from all relevant institutions, there are no legal obligations and therefore not even soft measures to ensure impartiality thereof.

Moreover, while final ranking lists from the three phases of the selection procedure are timely published on the website of the Agency for Administration, it remains almost impossible for external evaluators, CSO representatives, and the public in general, to assess whether the best candidates get the job, since the final decision remains a somewhat discretionary right of the manager of recruiting institutions. In cases of annulment of public competitions, the analysis finds that institutions do not practice proactive transparency, hence no information on the annulments of the public calls are available on the recruiting institutions' websites. Nevertheless, as reported by the institutions, in the event of annulling a public call, all applicants are notified timely.

Overall, based on the established methodology, three of the requirements under the PSHRM checklist were assessed as fully met, two were not met, whereas one could not be finally assessed as the findings could not be confirmed due to lack of data. Even though the current legislative framework is generally of good quality, it is in the implementation where institutions often fall behind. Nevertheless, further improvements of the legal framework can be done, and institutions should be encouraged to practice more proactive transparency.

CASE STUDY 4

Sector: Education, Employment and Social Policies Sector
Institution: Ministry of Education of Montenegro
Assessors: Snežana Kaluđerović, Milica Zindović, Centre for Civic Education, Podgorica

In this case study, subject of this analysis was the legal framework and the manner of employment, i.e., the election of directors of public institutions, in the field of education and upbringing. Criteria for hiring directors and teachers, in addition to the Labour Law,[6] are regulated by the General Law on Education and Upbringing[7]. Amendments to the General Law on Education and Upbringing from June 2021 served as a basis for the controversial dismissal of directors in over 200 public educational institutions and opened space for the election and employment of new directors. As this was preceded by a change of the decades-long government in Montenegro, the intention was noticeable to dismiss directors of public educational institutions since they were appointed by the previous government and without any individual assessment of their work,[8] which caused the initiation of over 157 litigations by the dismissed directors.[9] This was followed by a few first instance court decisions in favour of the injured parties.[10]

The General Law on Education and Upbringing should provide for independent and impartial treatment during the election of directors of public educational institutions. However, in practice there are many cases in which the spirit of this Law is not respected. The legal provision by which the Minister of Education elects and dismisses directors of public educational institutions in practice makes this procedure discretionary and lacking transparency. However, such a legal solution and a powerful mechanism of party influence, despite all the changes, is not renounced by any government. There are over 14,000 employees in the public institutions of education and upbringing, and it seems clear that it does not suit any governing structure to employ heads of educational institutions in an impartial and fair manner, with frequent criticism directed at ministers regarding the manner of employment.

6 Labour Law, "Official Gazette of Montenegro", no. 074/19, 008/21, 059/21, 068/21, 145/21

7 General Law on Education and Upbringing, "Official Gazette of the Republic of Montenegro", no. 064/02, 031/05, 049/07, "Official Gazette of Montenegro", no. 004/08, 021/09, 045/10, 073/10, 040/11, 045/11, 036/13, 039/13, 044/13, 047/17, 059/21, 076/21, 146/21 of 31.12.2021).

8 https://cgo-cce.org/en/2021/07/17/instead-of-enacting-the-needed-reform-educational-institutions-remain-prey-to-the-authorities/

9 https://www.cdm.me/drustvo/jedan-direktor-vec-dobio-spor-odstetu-placaju-gradani/

10 https://portalluca.me/drustvo/zastitnica-imovinsko-pravnih-interesa-crne-gore-bojana-cirovic-vise-od-100-smijenjenih-rukovodilaca-tuzilo-drzavu/

In this case study, it is concluded that the acting directors of most public institutions were appointed on 12 July 2021, without the previously conducted public competition, for a period of six months. In most public institutions whose directors are elected by the Minister of Education, advertisements were announced after the appointment of acting directors, i.e., in November and December 2021, in order to conduct competitions after the expiry of the six-month terms of office of the acting directors. In some of the available decisions on completed competition procedures, made in 2021 by the Minister Bratić, and in which it was decided not to elect any candidate, there are contradictions but also questionable legal grounds. On top of it, it is nowhere prescribed how many times a person can be extended the status of acting director.

The findings indicate that public educational institutions were transparent when announcing public competitions for directors, and in that part the legal procedures were followed. However, this transparency of the process of hiring directors ends when public institutions send applications to the Ministry with accompanying documentation, i.e., when the Ministry takes over part of the obligations from its competence.

The work of the three-member Committee, appointed by the Minister, for conducting oral interviews and reviewing the attached development programmes of the institution for the election of directors of the public institution, is not transparent, because there are no publicly available guidelines/rules on its work, nor there are any available reports or information on its composition. However, through certain available materials submitted by public institutions in accordance with the FOI request, it was determined that the members of this Committee changed in 2021. References of its members and reports/recommendations submitted to the Minister in 2021 are not available.

Overall, the possibility of Minister's discretionary decision to appoint and dismiss directors makes the transparency of procedures and the purpose of the three-member Committee meaningless, while the teachers' council and other existing resources on hiring and electing directors are simply wasted, and the law often violated by the competent Minister.

IV.3 ACCOUNTABILITY

CASE STUDY 5

Sector: Education, Employment and Social Policies Sector
Institution: Ministry of Education and Sport of Albania
Assessor: Gladiola Lleshi, Civic Resistance, Tirana

The right to information is enshrined in the Albanian constitution as well as guaranteed by law. For this case study, access to information was monitored in the policy sector of education with the assessed institution being the Ministry of Education and Sport (MES) where certain trends, issues and recommendations were identified. The case study is based on the one-year monitoring timeframe from February 2021 until February 2022, following the checklist which identifies 7 requirements that were assessed.

During the designated timeframe, the MES received 210 FOI requests (hereinafter FOI). On a positive note, majority of these requests met the legal deadlines, and the interested party received their answer within 10 business days from the day of its delivery. However, it is noteworthy that in order to evaluate the effectiveness of the right to information provision, it is imperative that the answers provided are assessed with regard to their substance. Thus, three sample FOI requests that fall within the monitoring timeframe were selected for detailed assessment to determine whether answers submitted by the MES correspond to what was requested. In aiming for a diverse sample, the selected requests exhibited different characteristics. It is found that for 2 out of 3 of these FOI requests, the information provided did not fully address the content of requests. This illustrates that despite the fulfilment of requests in accordance with the legal requirements in their exterior, they were not answered fully, but limited answers were given instead.

Furthermore, the national legislation foresees cases where a fee can be administered when submitting a FOI request. For all the 210 FOI requests submitted in the observed period, no such fees were administered. Practice of not applying fees facilitates the process of requesting information and enables any interested party to submit request regardless of their financial means.

In addition, access to information encompasses a wide variety of aspects that need to be considered, such as proactive information provision by public information holders. The official websites of institutions play an integral role in informing citizens on the area of work that the institution operates in, and it plays an essential role in addressing the queries of citizens as well. Thus, an up to date and enriched website contributes towards informing citizens in a quick and efficient way. In navigating and analysing the content of the website of MES, several issues were identified. Even though the contact details of the FOI coordinator are available, they cannot be easily found online. In addition, the MES has failed to integrate a FAQ section on its website, whereas the information made available is limited as in the lack of published policy documents, annual reports, and valid contact details. While those pieces of information and documents that are proactively published are user-friendly, this is diminished by the fact that there is very limited amount of data and information revealed to the public by MES in such documents.

The above-mentioned issues can hinder the FOI right, lead to further expenses, and can be time consuming. Despite the apparent positive aspects, the fundamental issues identified affect the accountability of the MES. Overall, the monitoring results display and highlight several issues that need to be addressed, most notably in that part related to the insufficiency of proactive disclosure of public information.

CASE STUDY 6

Sector: Education, Employment and Social Policies Sector
Institution: Ministry of Labour, Employment, Veteran and Social Affairs of Serbia
Assessors: Aleksandra Đurović, Goran Radlovački, Belgrade Open School, Belgrade

The focus of this this case study was whether the Ministry of Labour, Employment, Veteran and Social Affairs (MLEVSA), consistently applies in practice PAR principle on the right to access public information in the policy sector of Education, Employment and Social Policies. Based on the predefined checklist consisting of 7 requirements that pertain to the practice of reactive (based on FOI requests) and proactive information provision, data was collected and information from the official website of the MLEVSA, and by sending FOI requests.

Monitoring results show that the MLEVAS responds to FOI requests almost always within legally determined deadlines. Available information for the period of 12 months preceding the assessment indicates that in 79% cases, it responded to FOI requests within first legal deadline of 15 days, while the average number of days needed to respond to request was around 11 days. However, it was not possible to determine whether MLEVSA submits information that was requested due to lack of data, and this requirement could not be assessed. Legal framework for FOI in Serbia requires that institutions provide access to information of public importance free of charge. Institutions have, though, the right to charge fees for providing copies of documents, but such a pricelist for obtaining copies was not transparent, i.e., not published on the MLEVSA website.

When it comes to proactive and transparent informing, a publicly available FAQ section/page dedicated specifically to FOI on the MLEVSA website does not exist, just the FAQ on procedures, citizen rights and services that MLEVSA provides. This section concerns questions often sent to Sector for Family Care and Social Protection, and the Employment Sector. The Information Booklet, containing some information on the procedure of FOI, is easily accessible (one-click from the homepage on the official MLEVSA website), but was not updated at the time of monitoring, nor did it contain the information on available procedures for citizens to ask processual questions on FOI. Information on the contact person responsible for dealing with FOI requests is available on the MLEVSA website. However, an analysis of all job positions in the MLEVSA revealed that a management of FOI requests has not been systematized within a job position.

Furthermore, when it comes to basic information on the work of MLEVSA, some documents are published and/or updated regularly, including list of policy documents, services provided, and general contact information for the public. However, important documents such as annual reports on the Work of MLEVSA could not be found on the website. The data on planned revenues in 2021, and the data on expenditures in the same year is included only in an Information Booklet, however, the documents regarding the budget plans published on the MLEVSA website are outdated. Even though legal framework obliges institutions to open public administration data for reuse, this is not the case in practice of MLEVSA: neither the official website of MLEVSA, nor the government-sponsored Open Data Portal contain data and documents published in open data format.

Overall, while the assessed institution regularly and timely responds to FOI requests, on the other side, it largely lags in proactive publishing of valuable information on its website. To address the observed gaps, a set of recommendations entailing immediate, short-, and mid-term intervention were proposed.

IV.4 SERVICE DELIVERY

CASE STUDY 7

Sector: Education, Employment and Social Policies Sector
Institution: Ministry of Education and Science of North Macedonia
Assessor: Dimitar Vrglevski, Center for Change Management, Skopje

In this case study, authors assessed service delivery performance of the Ministry of Education and Science (MES) of the Republic of North Macedonia (RNM), according to eight requirements, related to: (1) the possibility for citizens to voice their opinions on the quality of the services received from the particular sector-specific institution; (2) public display of information on citizen feedback and satisfaction with received services; (3) detailed segregtion of such information (4) adapting service provisions to the needs of vulnerable groups; (5) existing different channels for accessing sector-specific services; (6) stages of development of the e-services that the sector-specific institution provides; (7) information on the accessibility of sector-specific services available to users; and (8) data relevant to sector-specific services availability in open formats.

Through the listed order, a qualitative research methods and mechanisms have been used for determining whether the MES has fulfilled these requirements, more precisely, using web site reviews, legislation review, on place visit, as well as requests for access to public information (FOI requests) and interview with relevant employee from the MES. Overall, the analysis was conducted to determine if the citizens/users are able to use the services that the MES provides via different channels and at what quality as well as if they are able to voice/express their satisfaction related to the service delivery performance of the MES. On the other hand, the analysis shows whether MES collects data and conducts regular examination which may contribute for future enhancement of the services as well as the service delivery performance, tailored to the citizen needs and priorities.

Regarding the possibility for voicing the citizens' opinion on the services and the service delivery, the MES has limited the citizens opportunities by offering only one publicly available method on their website (a complaint form) and dedicates research attention to the satisfaction of the employees of the institutions/schools that work closely on a day-to day basis with the MES. The MES doesn't publish on its website neither information from the citizen complaints, nor for the conducted research (2020 and 2021) of the satisfaction of the institutions that it collaborates with.

Regarding the adaptation of the services to the needs of vulnerable groups, the MES implements a strategic document, Concept for Inclusive Education, since the services it provides are delivered through different institutions. All the services that the MES provides are available in the traditional (physical) way of delivery, and some of them are also provided electronically. However, as an institution that promotes digitalisation, MES provides its services online on different platforms that need mutual integration and greater promotion. The

e-services that the MES provides are user-friendly, but it needs to work further on digitalising more services by concentrating them on one systematically organized platform, so they would ease the citizen path to using digital services. Also, the MES needs to start collecting information on the accessibility of the online services as well as those it provides through the traditional way, so it could serve as evidence for future designing of public services and for enhancement of already existing ones.

Finally, the MES in the future should focus on publishing more data in open formats, and coordinate with the national open data platform, as a more accessible central government platform. Overall, the MES has the potential to enhance the service delivery performance since it has shown drive for following and implementing the modern tends in public service delivery.

IV.5 PUBLIC FINANCE MANAGEMENT - BUDGET TRANSPARENCY

CASE STUDY 8

Sector: Environment and Climate Action Sector
Institution: Ministry of Environmental Protection of Serbia
Assessor: Uroš Jovanović, Civic Initiatives, Belgrade

The Ministry of Environmental Protection, the responsible institution assessed within the Environment and Climate Action Policy Sector, only partially presented information subject to the assessment within the monitoring process. The Ministry provided information on its budget spendings for 2020 and 2021, including a quarterly budget spending report for 2022. These reports were not published within the Ministry's website page dedicated to the budget but within the page created for the obligatory Information Booklet, which contains basic information on the work of this institution.

On the other hand, the economic classification of expenses within the budget spending reports has been provided only to a specific degree – up to the group types of expenses, while specific subgroups of expenses, such as analytical or sub-analytical accounts, are not visible. Classification of expenses according to specified subgroups determined by the Rulebook on the Standard Classification Framework and Chart of Accounts for the Budget System, would provide a better insight into each budget item and its spending. The reports included the programme classification, categorizing expenses within key programmes, programme activities and projects. On the other hand, and regarding to organizational classification of expenses, the reports do not contain information on spending of the Agency for Environmental Protection, which is an administrative body within the Ministry.

When it comes to capital projects under implementation at the time of monitoring, an overview of planned capital expenditures of the Ministry of Environmental Protection for 2021 can only be found in the Law on the Budget for 2021, while information on the implementation status and spending on capital projects is not available. The Ministry has been asked to provide information on the implementation status and spending on capital projects via the formal procedure of FOI, but no answer has been received from the Ministry during the monitoring work.

Finally, the Ministry did not publish its programme budget for 2022 nor the programme budget implementation report for 2021. For this reason, a formal request for access to information of public importance has been also sent to the Ministry, asking it to provide relevant information. Same as in the case of capital projects' implementation and spending status, no answer has been provided, and a complaint procedure was initiated before the Commissioner for Information of Public Importance and Personal Data Protection, which was ongoing at the time of writing this report.

CASE STUDY 9

Sector: Energy Sector
Institution: Ministry of Economy of Kosovo
Assessor: Fjolla Qorri, Balkan Green Fondation

A well-functioning PFM system is a prerequisite for building trust in the government. Kosovo's overall trajectory in this regard shows improvement, according to the European Commission Report. However, with the COVID-19 pandemic and the energy crisis, PFM reforms have slowed down. This is visible from the SIGMA Monitoring Report for Kosovo 2021.[11]

This case study evaluated budgetary transparency practices of the Ministry of Economy, with a focus on the energy sector. The methodology used consists of reviews of the publicly available documents that contain sector-specific budgetary information, interviews conducted with the relevant departments in the Ministry of Economy, and an analysis of the financial reports of the Ministry received through FOI requests.

In Kosovo, it is a practice that the budget is only published by the Ministry of Finance as part of the overall central-level budget, and not by the relevant Budgetary Organisation. Besides general information, regarding the macro-economic indicators of the general economic situation in Kosovo, such as GDP growth, exports and imports, foreign direct investments, public debt, and remittances, there was a lack of budgetary data on plans and execution online on the website of the Ministry of Economy, and they had to be procured via FOI request or a meeting with officials of the Ministry.

Moreover, the Strategy for Public Financial Management 2016-2020 has expired, and reporting practices on the budget are characterized by a general lack of alignment between strategic objectives and programs, or capital expenditures, in particular. Currently, there is only a small number of capital projects in the energy sector financed by the Ministry of Economy, and they are all related to energy efficiency measures. The small number of capital projects is due to capital investments being mostly done by the private sector. Information on the implementation of these capital projects is also limited. The Department on Budget of the Ministry of Economy only gave an oral explanation as to why certain projects have not been implemented, but no such information is documented. In the quarterly reports of the Ministry of Finance, only the implementation rate of each project is published.

When it comes to programme budgeting practices, it was quite challenging to assess whether sector-specific budgetary information is reported against performance indicators, on the level of outputs or outcomes. This is because the information is quite scattered and inconsistent throughout various relevant documents. The Midterm Expenditure Framework specifies a few objectives and indicators regarding the Ministry of Economy, and very few of them are related to the energy sector. There was a complete lack of information published online with regards to performance indicators and reports of the programme budgets, and the relevant public officials interviewed seemed unfamiliar with the performance budgeting process. Thus, a list of recommendations was provided to the Ministry, pertaining to each requirement assessed in this area.

11 Monitoring Report - The Principles of Public Administration Kosovo*. OECD 2021, https://www.sigmaweb.org/publications/Monitoring-Report-2021-Kosovo.pdf.

IV.6 PUBLIC FINANCE MANAGEMENT - PUBLIC PROCUREMENT

CASE STUDY 10

Sector: Education, Employment and Social Policies
Institution: Ministry of Civil Affairs of Bosnia and Herzegovina
Assessor: Emsad Dizdarevic, Transparency International in Bosnia and Herzegovina

In the PFM area on public procurement, the assessed institution was the Ministry of Civil Affairs of Bosnia and Herzegovina. The Ministry's portfolio includes various responsibilities including citizenship affairs, citizens registration and records, protection of personal data, registration of residence and place of residence, personal documents, travel documents, and vehicles registration process. The Ministry is also responsible for carrying out tasks and discharging duties which are within the competences of BiH and relate to defining basic principles, co-ordinating activities and harmonising plans of the Entity authorities and defining a strategy at the international level in the fields of health and social protection, pensions, science and education, labour and employment, culture and sports, geodetic, geological, and meteorological affairs.

It is important to emphasize that the Ministry does not procure goods/services/works for all listed sectoral competences, but mostly performs public procurements needed for the regular performance of the Ministry's activities. In other words, public procurement system of Bosnia and Herzegovina is decentralized, and lower-level institutions procure for themselves (for example, Education sector of the Ministry, does not implement all procurements related to this sector, but lower-level ministries in charge of education, universities, schools and similar).

For this case study, the sub-areas analysed included publishing of and amendments to the public procurement plans, notices on public procurement, awarded public procurement notices and number of offers submitted in open procedures. The period analysed covered the ongoing year, and for specific parts of the analysis, the previous two years too.

The key findings related to public procurement plans were that the Ministry publishes and has only temporary public procurement plans which are intended for quarterly period, and not the entire calendar year. They are available to the public only on the Ministry's website, and not online through public procurement portal. It is important to mention that by the Public Procurement Law of Bosnia and Herzegovina, contracting authorities are obliged to publish public procurement plans of higher value goods, works, and services within 60 days from the date of adoption of the budget, i.e., financial plan. The budget for 2022 at the state level has not been adopted at the time of monitoring, therefore Ministry of Civil Affairs of Bosnia and Herzegovina is not obliged to publish a public procurement plan. The Law on Public Procurement of Bosnia and Herzegovina does not consider temporary financing, and the published temporary public procurement plans are prepared in accordance with the Decision on temporary financing of institutions of Bosnia and Herzegovina adopted by the Council of Ministers. These plans include all the stipulations, regarding content, proposed by the Agency on Public Procurement of Bosnia and Herzegovina. There were no amendments to the current public procurement plan at the time of monitoring, the same as with the public procurement plans for the two previous years.

When it comes to timeliness of implementing planned public procurement procedures, the review of list of public procurements of the Ministry of Civil Affairs of Bosnia and Herzegovina, published on the online public procurement platform,[12] showed that procedures have been started is in accordance with the planned timeline.

To analyse whether the contracting authority conducts open/competitive public procurement procedures, the assessment was made for two last years. One of the key findings was that the Ministry used more competitive procedures, compared to the non-competitive procedure in both 2020 and 2021. It has also been noticed that during 2021, which was characterized by the Covid-19 pandemic, the non-competitive method for public procurements has been increasingly used.

When it comes to the number of offers for the awarded public procurements, based on cumulative received by the Agency for Public Procurement in Bosnia and Herzegovina, from March 2019 to March 2020, an average number of offers in the public procurements of the Ministry was 1.16 offers by procurement. The average number of offers in competitive procedures was 1.9.

12 https://www.ejn.gov.ba/.

CASE STUDY 11

Sector: Democracy Governance, and Rule of Law and Fundamental Rights
Institution: Ministry of Finance of North Macedonia
Assessor: M.Sc. Zoran Jankulovski, M.Sc. Blagorodna Ampova, Association of Finance Officers of the Local Governments and Public Enterprises

The implementation of public procurement by the Ministry of Finance of the Republic of North Macedonia (hereinafter: the Ministry of Finance) is in accordance with the basic principles of equal treatment, non-discrimination, proportionality, and transparency. Thereby, it is concluded that during the implementation of the planned public procurement procedures, efficient use of public funds is ensured by using modern techniques and methods for public procurement through the national e-procurement system.

The Ministry of Finance published through the national e-procurement system, public procurement plans for both 2021 and 2022. In 2021, they changed or supplemented the plan 3 times, and as of 30 April 2022, the plan has not been changed. The implementation of public procurement plans mainly takes place through the Electronic Public Procurement System (hereinafter: ESPP).[13] The procedures following the procurement are fully in accordance with the Law on Public Procurement. In 2021, small value procurements and procurements with simplified procedure prevailed, for which a public procurement notice was published with 73.20 % of the total planned procurements.

In 2022, until April 30, 2022, a simplified procedure for which a notice has been published and a simplified procedure for which a notice has not been published prevail, with a total realization of 52% compared to the plan. Information regarding public procurement is publicly available on the ESPP system and anyone interested can search through planned public procurement procedures, ongoing and completed ones. Open and competitive procedures are the main method for conducting public procurements, which ensures maximum accountability for spending public money.

It should be noted that the Law on Public Procurement does not prescribe an obligation for the contracting authorities to prepare and publish reports on the conducted public procurements. The only obligation imposed by the Law, for all contracting authorities, is that they should keep separate records of public procurement procedures, to be kept in a separate record book in electronic form on the portal ESPP, containing all the documents arising from the procedure. Although all contracting authorities are required to keep records of all their public procurement procedures and to submit reports to the Public Procurement Bureau through the portal, there are no consolidated reports of their total records.

Overall, after the detailed analysis of the requirements, it is concluded that the national system for public procurement – ESPP, provides a high level of transparency. That said, this cases study offered recommendations for additionally enhancing transparency in this domain. To name a few, it is recommended to continue with transparent process of publishing data for public procurement needs of the contracting authorities, together with announcing changes to procurement plans. On the other hand, to monitor the implementation of the public procurement plan by months, it is recommended that the contracting authorities have an obligation to publish data on the reasons for untimely initiation of planned procurements. In practice, it is often the case that this untimeliness is due to use of non-transparent methods, such as negotiating procedures without publishing a notice for urgent cases.

Furthermore, to increase the transparency and accountability of spending public funds, for every planned procedure for public procurement there should be information on why the procurement is needed, who is requesting it (internally within the framework of the contracting authority), i.e., to introduce an obligation to fill in an explanation of the need for the procurement and for possible changes or additions to the annual public procurement plan.

Finally, monitoring the implementation of the public procurement plan is extremely important for each contracting authority for timely and appropriate planning for the coming year, and implementation reports and should be available to the responsible person of the contracting authority. The data for this report should be generated automatically by ESPP and should contain at least the following data: number of planned procurement; how many procedures for awarding a public procurement contract have been carried out; how many procedures have not been started and the reason; how many procedures were cancelled by applicants and the reason; value of the concluded contracts and the difference between the estimated value and the value of the concluded contracts, i.e., achieved savings realised.

13 https://e-nabavki.gov.mk/PublicAccess/Home.aspx#/home

V.

WHAT NEXT? STEPS TO CONSIDER IN THE FUTURE APPLICATION OF THE SECTORAL APPROACH TO MONITORING PAR PRINCIPLES

As presented in Section III of this report, the results of pilot exercise have brought about certain lessons from the application of monitoring methodology for mainstreaming PAR principles in policy sectors. Based on these experiences, as well as the additional insights from the peer review process of national monitoring reports, this section contains recommendations on steps to consider when preparing and implementing a similar approach in the future. These recommendations serve to provide a roadmap and food for discussion for the future adaptation of PAR principles mainstreaming into sectoral policies.

The sectoral approach should be extended to include also to the institutions at the first administrative/ political level below the central state administration (e.g., at the level of region, province, federal unit), if clear sectoral competences cannot be determined at the central state administration. This should be applied not as a rule but as a tailor-made solution whenever it is meaningful to consider country characteristics.

In relation to the previous recommendation, **a single checklist should, when needed, be applied more than once during monitoring work, to all competent sectoral authorities in a given country** (e.g., responsible authority in the Federation of Bosnia and Herzegovina, a responsible authority in the same sector in the Republic of Srpska entity).

Experience from the pilot monitoring speaks that the implementation of a single checklist should not be limited to a single (lead) institution. **In justified cases, practices of more than one institution should be covered when monitoring the compliance with requirements of a single checklist and, thus, considered for assessment**. In practice, it means determining and agreeing in advance what administration bodies will be monitored for the sake of having more relevant findings and assessments of sectoral practice, instead of observing a single institutional practice. Once again, this should not be applied as a rule, but as a customised approach, with clearly defined the protocol for final assessments (for instance, where two institutions share sectoral competencies almost equally, cumulative final assessments can be based on practices of both institutions; or final assessments can be based on practices of institution that is determined to have more responsibilities within the sector). Yet, in such cases, recommendations should still be developed and tailored to each assessed institution individually, in order not to lose on the specificity and relevance of the recommendations. Moreover, development of specific institutional recommendations is important for the localisation of responsibility within the administration and even within the specific institutions.

The time period allocated for the monitoring work should consider the specifics of a given checklist, especially with regards to the number of requirements in combination and dependency of the assessment outcomes on the information obtained via FOI requests.

Checklists are largely uniform when it comes to the number of requirements, with the exception of the one for the Policy Development and Coordination area. Moreover, sending FOI requests was an important data collection tool for all checklists. Nevertheless, in some cases, requirements are fully dependent on the data received from the administration based on the FOI requests, rather than on the general availability to the public. Therefore, it might be worth discussing the period of the implementation of the monitoring work in advance due to potential late responses, or if requests are denied, and appeals before the FOI supervisory/appeal body need to be submitted.

It should be considered to add clear guidelines in the description of the monitoring work on how to tackle administrative silence. Generally, for each country in the region, there are provisions governing the protection of FOI right, and competencies of bodies that supervise the administrations' practices in this domain. Such guidelines should ideally advise assessors in the cases where they should follow through the entire FOI procedure, up until the supervisory/appeal body.

In connection to the previous, a guideline for labelling requirements "cannot be assessed due to lack of data", or similar, could be included in the monitoring work description. Experience from the pilot exercise tells that inability to assess individual requirements was mostly a consequence of unresponsiveness of institutions to FOI requests. Depending on the content of requirements, such a guideline could remove any doubts on whether a requirement that cannot be assessed due to lack of information and data should be labelled as "cannot be assessed" or "requirement not met".

In the future, it would be advisable that assessors prepare and organise meetings with representatives of the assessed institutions ahead of the monitoring work, familiarise them with the aim, approach, and expected outputs of the monitoring as well as data needs. This could be done in combination with sending of cover letters to responsible institutions, as practiced in the pilot exercise, and for the purpose of securing higher responsiveness of institutions during the monitoring task, building trust and, finally, ensuring data availability. One of the conclusions from the pilot exercise was that certain sectoral institutions did not know they were subject of civil society monitoring. Practicing early proactiveness could mean higher engagement and buy-in on the part of administrations during the entire monitoring period.

Finally, when selecting preferred policy sector, assessors should be given an opportunity in the future to choose same sector if they are monitoring practices of different institutions. In the pilot exercise, the intention was to have all the sectors represented to the extent possible. However, having in mind their broad definition (which often includes more than one policy area, e.g., *Education, employment, and social policies*), and the fact that national institution can share sectoral responsibilities, multiple application of checklists within the same sector, but for different responsible institutions, should result in more comprehensive overview of how PAR principles are integrated into chosen sectors.

APPENDICES

Final assessment of the requirements – regional overview of all pilot assessments

REQUIREMENTS	FINAL ASSESSMENT				
Policy Development and Coordination	**ALB**	**BIH**	**KS**	**MNE**	**SRB**
IAs produced by the relevant institution adequately respond to the questions posed by the central-government IA regulations and methodologies	Partially met		Fully met		Fully met
IA use quantitative and quaitative data and information, pertaining to various types of impacts as needed	Partially met		Partially met		Partially met
Gender IAs are conducted as part of the IA process	Not met		Not met		Partially met
Policy options are determined as part of the IA process	Partially met		Partially met		Partially met
Policy options are costed, and the outputs of the analysis clearly indicate the costs and the source(s) of funding for the proposed policy	Partially met		Partially met		Partially met
Policy monitoring and evaluation mechanisms are properly developed as part of the IA process, along with performance indicators	Partially met		Not met		Partially met
Consultations are conducted in the course of developing policies and legislation.	Not met		Partially met		Partially met
The consultations conducted in the policy development process include all relevant stakeholders.	Not met		Partially met		Partially met
Consultations conducted in the policy development give proper consideration to the inputs received from the consultees	Not met		Partially met		Partially met
Once the draft policy proposal is prepared, it undergoes a public consultation (debate) process	Fully met		Fully met		Fully met
The public consultation announcement includes the publication of all relevant documents	Partially met		Partially met		Fully met
The relevant ministry proactively disseminates the invitation to participate in the public consultation	Partially met		Fully met		Partially met
The public consultation process allows sufficient time to prepare and submit inputs	Not met		Fully met		Fully met
The ministry conducting the public consultation prepares and publishes a detailed public consultation report	Not met		Partially met		Partially met
Following the public consultation, the agreed final policy proposal does not undergo further changes through inter-ministerial consultation processes	Partially met		Fully met		Not met

Public Service and Human Resource Management	**ALB**	**MNE**	**NMKD**
Information about public competitions is made broadly publicly available	Not met	Fully met	Fully met
Potential candidates have sufficient time to submit applications in the public competition process	Not met	Fully met	Fully met
Selection committees' composition is professional and impartial	Not met	Not met	Not met
Transparency of selection committees' outcomes is ensured	Partially met	Not met	Fully met
The best-ranked candidates get the job in practice	Partially met	Not met	Not assessed
Reasons for annulling public competition procedures are publicly available	Fully met	Fully met	Not met

Accountability	ALB	BIH	MNE	SRB
Responsible institution submits information within the respected deadlines	Fully met	Partially met	Fully met	Partially met
Responsible institution submits information that was requested	Not met	Partially met	Fully met	Not assessed
Responsible institution as a rule does not charge for providing responses to FOI request	Fully met	Partially met	Partially met	Fully met
Responsible institution publishes online an accessible, useful and citizen-friendly FAQ section on free access to public information	Not met	Partially met	Partially met	Not met
Responsible institution makes available information on the contact person for FOI easily accessible online	Partially met	Partially met	Partially met	Fully met
Responsible institution proactively publishes online basic public information on their work	Not met	Fully met	Partially met	Not met
Responsible institution publishes data in open formats	Partially met	Not met	Not met	Not met

Service Delivery	NMKD
Users are enabled to voice their opinion on the quality of services received	Partially met
Information on citizen feedback and satisfaction with received services is published	Not met
Published data on citizen feedback is sufficiently detailed and segregated	Not met
Service provision is adapted to the needs of vulnerable groups	Partially met
Different channels for accessing sector-specific services are made available to users	Partially met
E-services are developed and available to users	Partially met
Information on the accessibility of sector-specific services is available to users	Not met
Data relevant to sector-specific services is available in open formats	Partially met

Public Finance Management – Budget Transparency	KS (1)	KS (2)	SRB
Sector-specific information on budget spending is available	Fully met	Fully met	Partially met
Sector-specific information on budget spending is sufficiently detailed	Fully met	Fully met	Partially met
Responsible sector institution reports on the implementation of capital (investment) projects	Partially met	Fully met	Not met
Sectoral budget contains performance targets as a precondition for performance-based budget reporting	Not met	Partially met	Not assessed

Appendix: Assesors:

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