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Bosnia and Herzegovina Priorities Report 2013

OECD



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PRIORITIES

BOSNIA AND HERZEGOVINA

MAY 2013

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2013-2020 SIGMA COUNTRY PRIORITIES FOR PUBLIC ADMINISTRATION REFORM – Explanatory note

Aim and structure of proposals

SIGMA has identified the following country priorities for public administration reform (PAR), which are a continuation of the 2013 SIGMA assessments and part of a longer-term programme of work. Priorities cover the overall PAR needs of the country, including areas which were not covered by the assessments. Priorities in areas outside the scope of SIGMA assessments are based on other analytical sources and SIGMA's practical experience of working with the country.

SIGMA proposes priority 2020 targets for the countries, sub-targets when needed, and sequenced priority activities in 1-2, 3-5 and 5+ year time perspectives. The EC may wish to use the identified priorities to feed into the planning of EU assistance, in particular for IPA II, and to inform discussions with the country on public administration reform priorities.

BOSNIA AND HERZEGOVINA
2013-2020 SIGMA COUNTRY PRIORITIES

The following priority targets are proposed for Bosnia and Herzegovina for 2020:

1. A professional civil service, in line with EU principles, is in place through the implementation of adopted civil service legislation and adequate human resources management (HRM) tools, and it is supported by central management capacities that have the authority and resources to ensure coherent standards and common practices at all administrative levels in Bosnia and Herzegovina (BiH).
2. A better balanced budget that is characterised by fiscal discipline; a public internal financial control system (PIFC) for the entire public sector, in compliance with EU principles, standards and methods; and is subject to effective parliamentary oversight, supported by an operationally and financially independent Supreme Audit Institution (SAI).
3. The public procurement system, including public-private partnerships (PPPs)/concessions, is in place and fully operational, in accordance with EU rules and good international practice. Public procurement operations provide value for money, are sustainable under budgetary limitations and projections, and stimulate economic growth. Contracting authorities, economic operators and civil society have confidence in the fairness and integrity of the system. Corruption and fraud have been significantly reduced.

CIVIL SERVICE AND ADMINISTRATIVE LEGAL FRAMEWORK

STATE OF PLAY

No progress has been made in finding a workable solution to the problems of further fragmentation and politicisation of the civil service in Bosnia and Herzegovina (BiH). Both problems continue to hamper the establishment of a professional, accountable and efficient civil service based on merit and competence.

Administrative decision making has been impeded by the continuous malfunctioning of the administration. This situation is due to the failure to apply in practice the principles of legality, equality, and predictability of administrative decision making and actions.

The challenges are to strengthen the political ownership of civil service reform and the commitment to developing a merit-based, professional and politically neutral civil service; and to ensure the purposeful implementation of the administrative legal framework.

Target 2020	<p>A professional civil service, in line with EU principles, is in place through the implementation of adopted civil service legislation and adequate HRM tools, supported by central management capacities that have the authority and resources to ensure coherent standards and common practices at all administrative levels in BiH.</p> <p>The administrative legal framework and practices ensure accountability, equality and predictability in an administrative decision making process that is coherent at all administrative levels in BiH.</p>
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CIVIL SERVICE AND ADMINISTRATIVE LEGAL FRAMEWORK

The commitment to the development of a merit-based, professional, politically neutral and ethical civil service has been confirmed through concrete actions.	
1-2 Years	<ol style="list-style-type: none"> 1. Parliament of the Federation of BiH (FBiH) to adopt a new civil service law that can function simultaneously as a framework law acceptable for the cantons and as an instrumental law for managing civil service of the administrative bodies of the Federation; 2. Council of Ministers of BiH, Government of the FBiH, Government of the Republika Srpska and Government of the Brčko District (hereinafter: Governments) to launch an open dialogue to find a modality aimed at a better balance between the principles of merit and proportional ethnic representativeness in the civil service; 3. Governments to identify a political office at each administrative level of BiH (e.g. the centres of government), where responsibility for policy making in the area of civil service will reside, and equip it with the necessary tools for ensuring the sustainability and coherence of civil service reform programmes within the context of wider public administration reform in BiH; 4. Governments to implement the existing anti-corruption infrastructure of BiH, including the Anti-Corruption Strategy 2009-2014 and its Action Plan; 5. Governments to allocate sufficient funding in the budgets (e.g. 2% of the annual salary budget for civil servants) to ensure the professional training of civil servants, in accordance with the adopted Training and Development Strategies, at all administrative levels in BiH; 6. Civil Service Agencies of BiH, Federation of BiH and Republika Srpska and the Sub-Department for HRM of Brčko District (hereinafter: Civil Service Agencies) to continue regular co-operation through the HRM Supervisory Board of Public Administration Reform of BiH: <ul style="list-style-type: none"> • Civil Service Agencies to discuss and agree the common HRM policy framework for all civil service structures in BiH (this activity started in March 2013); • Governments to adopt the common HRM policy framework and its action plan; 7. Civil Service Agencies, in co-operation with the Data Protection Agencies and Ministries of Justice (MoJs) at all administrative levels in BiH, to find a solution to the identified barriers to making the HRM information systems operational as tools for civil service planning and decision making.

CIVIL SERVICE AND ADMINISTRATIVE LEGAL FRAMEWORK

3 -5 Years	<p>8. Government of FBiH to empower the Civil Service Agency of the FBiH with sufficient authority and resources to (i) provide instructions, guidelines and advisory support to the cantons in order to implement the new law(s) on civil service; and (ii) harmonise HRM practices in all administrative bodies of the FBiH at the federal and cantonal level;</p> <p>9. Governments to evaluate the implementation of the Anti-Corruption Strategy 2009-2014 and its Action Plan in co-operation with all anti-corruption bodies of BiH;</p> <p>10. Parliaments to amend the laws of civil service, and governments to amend the secondary legislation according to the results of the public discussions and political agreements on modality aimed at a better balance between the principles of merit and proportional ethnic representativeness in the civil service;</p> <p>11. Civil Service Agencies, in co-operation with the HRM units of all administrative bodies, to implement the action plan of the common HRM policy framework, laws and secondary legislation of the civil service;</p> <p>12. Civil Service Agencies to monitor and report annually to the Governments on implementation of the action plan of the common HRM policy framework and of the civil service legislation.</p>
5 + Years	<p>13. Governments to improve and implement secondary legislation, guidelines and managerial tools (for recruitment, training, performance appraisal, remuneration, career development, mobility, etc.) and align them with the common HRM policy framework for all civil service structures in BiH;</p> <p>14. Parliaments to amend the civil service laws in order to create legal mechanisms for internal mobility and for the horizontal and vertical career development of civil servants between the different administrative levels in BiH so as to make the civil service sustainable and attractive;</p> <p>15. Governments to create a competency framework for senior civil servants, which serves as a solid foundation for the recruitment, training and career development of professional civil service managers and for the development of a strong <i>esprit de corps</i> in the civil service;</p> <p>16. Governments to regularly monitor and assess civil service reform programmes in order to ensure their effectiveness.</p>

CIVIL SERVICE AND ADMINISTRATIVE LEGAL FRAMEWORK

The quality of public administration decision making processes has been improved to ensure the legality, equality, predictability and accountability of the administration, and to provide good public services in BiH.	
1-2 Years	<ol style="list-style-type: none"> 1. All administrative bodies to implement consistently the recommendations issued by the Human Rights Ombudsman of BiH and other oversight bodies; 2. Ministry of Justice of BiH , Ministry of Justice of the Federation of BiH, Ministry of Administration and Local Self Governance of Republika Srpska, and Office of the Mayor of the Brčko District to conduct a comprehensive review of administrative decision making at all administrative levels of BiH in order to clarify the main roots of the problems in malfunctioning of the administration (lengthy administrative procedures, silence of the administration, ineffective responses by inspections, unprofessional civil servants, etc.) when implementing the current laws on public administration, administrative procedures, free access to information, and administrative inspections at all administrative levels in BiH; 3. Governments to adopt action plans, which include the identification of the responsible institutions, the setting of realistic timelines, and the provision of necessary resources to implement the recommendations of the review of the administrative decision-making process.
3 -5 Years	<ol style="list-style-type: none"> 4. Parliaments to amend the administrative legal framework in accordance with the recommendations of the review of the administrative decision-making process and corresponding action plans; 5. At all administrative levels in BiH, strengthen the capacities of the institutions responsible for administrative decision-making to enable them to (i) provide legal opinions and other expert advice, instructions on issues causing problems in practice, and information on judicial practices; (ii) share good practices; and (iii) monitor regularly the quality of administrative decision-making; 6. Civil Service Agencies, in co-operation with the central institutions responsible for administrative decision making, to develop and systematically implement professional training programmes for priority target groups in order to ensure coherent and correct practices in administrative decision-making processes.

CIVIL SERVICE AND ADMINISTRATIVE LEGAL FRAMEWORK

5 + Years	<ol style="list-style-type: none">7. Governments to monitor and assess the implementation of the laws on administrative procedures in order to continuously improve the delivery of public services;8. Oversight institutions to monitor and assess the legality and accountability bodies at all administrative levels of BiH with regard to the implementation of respective laws and the administrative capacity of these institutions.
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PUBLIC FINANCE MANAGEMENT

STATE OF PLAY

The State and the two entities approved their budgets for 2013 so as to comply with the requirements for obtaining International Monetary Fund (IMF) support. However, the breakdown of the political consensus in 2012 has negatively impacted on public financial management (PFM). Little progress has been made in this area over the past year.

With regard to public expenditure management (PEM), the basic legislation for regulating financial management issues is broadly in place but there is regular non-compliance with the laws. The result is a budget procedure that is fixed in law but often not followed in practice.

For public internal financial control (PIFC), the formal legal basis is not yet complete, and there are inconsistencies between the different levels of government. Implementation is slow, with only minor changes in the number of staff, and there is no evidence of improvements to deliver more efficient and effective spending. The Coordination Board (CB) for Central Harmonisation Units (CHUs) has failed to meet since November 2011, which is a major impediment to progress.

In external audit, the four supreme audit institutions (SAIs) carry out a professional audit job within the limits of their resources. Co-operation between the SAIs, under the umbrella of the CB, is a key factor in their further development.

Target 2020	A better balanced budget that is characterised by fiscal discipline; a PIFC system for the entire public sector, in compliance with internationally agreed and EU principles, standards and methods; and is subject to effective parliamentary oversight supported by an operationally and financially independent SAIs.
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PUBLIC FINANCE MANAGEMENT

After strengthening the basic features of budget preparation and execution, including the necessary legislative amendments, a medium-term approach to expenditure management has been developed and a common fiscal policy exists across the State and Entities.

1-2 Years	<ol style="list-style-type: none"> 1. Ministries of Finance (MoFs) to introduce and implement legislation stipulating that the Governments consider only the new policy proposals where the relevant line ministry has adequately estimated the fiscal impact on a three-year basis and where capital investments take account of consequent current expenditure; 2. MoFs to establish a training plan for developing the capacity of key staff to analyse the reliability of fiscal impact estimates carried out by line ministries ; 3. Line ministries to ensure that their key staff receive formal and on-the-job training in estimating the cost of new policies; 4. MoFs to develop the capacity of key staff to forecast and monitor general government debt and deficit targets; 5. MoFs and Statistical Agencies to improve the co-ordination of budgeting and accounting methodologies so as to provide reliable overall general government financial data through the adoption of an agreed methodology and regular follow-up meetings of senior management; 6. Governments to prevent the creation of earmarked funds, through the introduction and implementation of new primary legislation, so that all revenues are included in the scope of the budgets.
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PUBLIC FINANCE MANAGEMENT

3 -5 Years	<ol style="list-style-type: none"> 7. Fiscal Council to examine the reasons for the difficulties it has had in fulfilling its co-ordinating role and make the necessary changes to enable it to function effectively; 8. Governments to begin the introduction of programme budgeting following the earlier establishment of the basic budgeting features of traditional budgets; 9. MoFs to further enhance capacities in their Macroeconomic Departments so that medium-term expenditure projections become more realistic; 10. Governments to strengthen the role of the respective Parliaments by introducing and implementing legislation providing them with sufficient time and resources for discussing the budget and allowing them to propose amendments to the budget that do not increase the deficit ceiling.
5 + Years	<ol style="list-style-type: none"> 11. MoFs to review and monitor the progress made in the previous five years to ensure that they are working well in practice; 12. MoFs to drive process for further development of programme budgeting in budget users by introducing performance information, with a view to assessing whether strategic and operational objectives are being achieved.

PUBLIC FINANCE MANAGEMENT

PIFC strategies have been updated, the PIFC environment, including that for EU funds, has been strengthened, and the conditions for managerial accountability in the public sector have been developed.	
1-2 Years	<ol style="list-style-type: none"> 1. CHUs to conduct gap analysis of the strengths and weaknesses of current FMC arrangements; 2. Governments to agree a process in order to reconvene regular meetings of the CB to ensure a co-ordinated approach to new strategies and action plans; 3. Ministries of Finance to develop PIFC strategies that are more closely linked to the public administration reform (PAR) process; 4. Governments to complete the legal establishment of FMC in FBiH and in the Republika Srpska; 5. MoFs to draft secondary legislation on FMC and internal audit (IA) that will clarify roles and responsibilities as well as issues, such as managerial accountability and risk management; 6. Governments to provide adequate staffing for CHUs and IA units in budget users; 7. CHUs to provide IA training for staff in line ministries.

PUBLIC FINANCE MANAGEMENT

3 -5 Years	<ul style="list-style-type: none"> 8. CHUs to review and monitor the progress made in the previous two years to ensure that they are working well in practice; 9. Governments to begin implementing a system of managerial accountability within budget users; 10. Governments to decide on the establishment of functions and a structure for a decentralised implementation system (DIS) for EU funds, and begin to implement it; 11. Budget users to strengthen their internal control processes so that MoFs can begin to change the focus from centralised control to decentralised management of resources; 12. Budget users to improve FMC practices by using a Budget Management Information System (BMIS) as the basis for linking performance target data with budget allocations; 13. Budget users to further strengthen the capacities and role of IA as an advisory service to top management.
5 + Years	<ul style="list-style-type: none"> 14. CHUs to review and monitor the progress made in the previous five years to ensure that they are working well in practice; 15. Budget users to adapt accounting information to management needs; 16. The MoFs to work with budget users to develop an understanding among key staff of the use of management information and performance indicators to analyse how services are being delivered and how they can be delivered more effectively.

PUBLIC FINANCE MANAGEMENT

The SAIs have been strengthened, are operating in accordance with international standards, and are helping to develop FMC in line ministries.	
1-2 Years	<ol style="list-style-type: none"> 1. Governments to agree a process for the CB to meet more regularly so as to provide a basis for the SAIs to strengthen their co-operation; 2. Each SAI to improve the content of its reports, especially with regard to audit opinions, in order to increase understanding and acceptance of the role of the SAIs as external auditors; 3. Each SAI to develop an annual communication plan aimed at widening awareness of its work; 4. SAIs to improve their relations with MoFs through regular top-level meetings on issues of common interest, more informal contacts and consultations, and joint training events; 5. SAIs to improve their relations with Public Prosecutors by adopting clear internal procedures and a Memorandum of Understanding with prosecutors.

PUBLIC FINANCE MANAGEMENT

3 -5 Years	<ol style="list-style-type: none"> 6. SAIs to increase the efficiency of the financial audit process by making use of IT facilities; drafting realistic and clear audit plans; and training auditors in the use of sampling methods; 7. SAIs to increase the effectiveness of financial audit results by clarifying the meaning of the various types of audit opinions given; 8. SAIs to increase the impact of performance audit through a strategic, multi-annual planning approach that allows a sequence of smaller-scale audits; 9. SAIs to identify needs for further TA in order to develop performance audit; 10. Improve quality control and assurance by organising training events for auditors in using the Audit Quality Control Guide drafted co-operatively by the three SAIs.
5 + Years	<ol style="list-style-type: none"> 11. SAIs to review and monitor the progress made in the previous five years to ensure that they are working well in practice; 12. Governments to incorporate public external audit in the respective Constitutions with regard to the status, function and tasks of Audit Offices; and regulation of the appointment, dismissal and terms of mandate of auditors general and their deputies.

PUBLIC PROCUREMENT, INCLUDING PPPS/CONCESSIONS

STATE OF PLAY

Although the BiH public procurement system was developing in the right direction in 2004, when the Public Procurement Law (PPL) was adopted and its implementation launched, obvious signs of weakness and inertia have dominated since 2004. BiH is the only country in the region that has not transposed the 2004 EU public procurement legislative package. On the operational side, the bureaucratic and simplistic nature of procurement practices in BiH adds to the cost of participation in public tenders for economic operators, and thereby reduces competition. The central institutions responsible for implementation of the system are weak and lack political support. The administrative capacity of contracting authorities and the professional ability of procurement officers to properly implement public procurement procedures remain unsatisfactory.

A number of ongoing key problems need to be tackled with a long-term perspective in mind. These problems are:

- Lack of political will to pursue the reform of the public procurement system (more precisely, political conflicts blocking the reform), which is especially evident in the area of public-private partnerships (PPPs)/concessions, where there is a risk of further fragmentation of the system;
- Lack of professional skills from both the contracting authority and bidder perspectives;
- Lack of operational tools: procurement models and standard documents;
- Heavy costs: numerous (and weak) agencies to implement the system (especially fragmented in the area of PPPs/concessions) and heavy operational costs in terms of both finance and time in running the system, for both contracting entities and economic operators;
- Corruption: critical need for ongoing support at the government level, in both practical and financial terms, for the implementation of reform measures.

**Target
2020**

The public procurement system, including PPPs/concessions, is in place and fully operational, in accordance with EU rules and good international practice.
Public procurement operations provide value for money, are sustainable under budgetary limitations and projections, and stimulate economic growth.
Contracting authorities, economic operators and civil society have confidence in the fairness and integrity of the system.
Corruption and fraud have been significantly reduced.

PUBLIC PROCUREMENT, INCLUDING PPPs/CONCESSIONS

1-2 Years	<ol style="list-style-type: none"> 1. Public Procurement Agency (PPA) to develop practical operational tools, e.g. standard tender documents for PPPs, concessions, supplies, services and works; 2. PPA to focus on lowering the operational costs of participation in the system for both contracting entities, e.g. by introducing the free-of-charge, online publication of procurement notices and tender documents (which would also include notices for PPPs/concessions) and economic operators, e.g. by simplifying the qualification procedure; 3. PPA to promote the partnership approach between the public and private sectors, by including all stakeholders in a consultative body (forum) that oversees the implementation of the system; 4. PPA and the Anti-corruption Agency to co-ordinate measures and activities aimed at increasing transparency and legal security and intensifying the fight against fraud and corruption; 5. Procurement Review Body (PRB) to review the remedies system and determine the regulatory and institutional reforms required, including reforms with respect to perceptions of conflicts of interest, and prepare a corresponding action plan; 6. PPA to prepare implementing tools, manuals and guidelines for both procurement and PPPs/concessions; 7. PPA to promote professional networks of procurement experts from both the public and private sectors.
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PUBLIC PROCUREMENT, INCLUDING PPPs/CONCESSIONS

3 -5 Years	<p>8. PPA and Concessions Commissions to review, streamline and strengthen the institutional set-up, especially in the area of PPPs/concessions; consider the integration of administrative structures responsible for implementing the PPL and PPP/concessions legislation at various levels of BiH Governments;</p> <p>9. PPA to implement legal, technical and institutional infrastructures enabling the use of modern procurement tools and techniques, e.g. electronic procurement, dynamic purchasing systems, framework agreements and centralised purchasing;</p> <p>10. PPA and line ministries to develop and implement sector-specialised – e.g. IT services and supplies, health supplies, road construction, and office supplies – operational tools, including model tender documents, standard technical specifications, and methodologies for tender evaluation based on the most economically advantageous tender criteria;</p> <p>11. PPA and Concessions Commissions to adopt a new, clear and coherent legislative framework for awarding public contracts and PPPs/concessions, in line with the basic principles of the current EU <i>acquis</i>.</p> <p>12. PPA and Chamber of Commerce to assist the private sector, especially small and medium-sized enterprises (SMEs), to increase its competitiveness in the EU public procurement market;</p> <p>13. PPA to maintain and update curricula, manuals and guidelines; continue to steer the system and to ensure quality control.</p>
5 + Years	<p>14. PPA to improve instruments (guidelines, regulations) to promote sustainable procurement, achieve environmental and social objectives, and encourage innovation in procurement;</p> <p>15. PPA to ensure continuous monitoring of legislative changes at the EU level, appropriate harmonisation and subsequently effective fulfilment of EU accession requirements related to public procurement procedures, concessions, remedies, defence procurement and electronic procurement;</p> <p>16. PPA to conduct ex post analysis of projects implemented and actions undertaken; compare stated objectives with objectives accomplished.</p>