Chapter 3. Institutional and regulatory framework for SME policy making (Dimension 3) in the Western Balkans and Turkey

This chapter assesses the quality of policy-making frameworks for small and medium-sized enterprises (SMEs) in the Western Balkans and Turkey. It starts by providing an overview of the assessment framework, then analyses the three sub-dimensions of Dimension 3: 1) institutional framework, which looks at the quality of the institutional framework as a basis for SME policy making; 2) legislative simplification and regulatory impact assessment, which examines whether regulatory review mechanisms are in place to assess the impact of regulations on SMEs; and 3) public-private consultations (PPCs), which evaluates how frequent and transparent PPCs are for SME policy making and the extent of the private sector involvement. Each sub-dimension concludes with key recommendations for helping to build advanced institutional and regulatory frameworks in the WBT economies, which will better address the needs of SMEs.
Key findings

- **Institutional frameworks for SME policies have been established in most of the Western Balkan and Turkey (WBT) economies.** The economies have well-developed SME strategies in place, they are implementing these strategies according to plan and most of the economies are monitoring them regularly. However, there is virtually no comprehensive evaluation of the effectiveness and cost efficiency of policy measures in the region.

- **The economies have introduced measures aiming to combat the informal economy, but a whole-of-government approach is still needed.** These measures are mostly being introduced by tax authorities, ministries of finance or employment agencies, with virtually no co-ordinated efforts by SME policy implementation bodies.

- **All WBT economies have undertaken regulatory reform efforts to review, simplify or eliminate legislation,** but the scope of reform varies across the region. Monitoring remains weak, as there are no data on the proportion of primary and subordinate legislation that has been reviewed and eliminated.

- **Regulatory impact analysis (RIA) has become a mandatory part of the policy-making system for the entire region.** However, the RIA process is unevenly institutionalised and not consistently practised.

- **Despite a formal requirement to conduct public-private consultations (PPCs) prior to all major regulations in most of the region, the quality of the PPC process is uneven,** varying across institutions. The majority of government acts are still adopted through an “urgent” procedure that bypasses any consultation.

- **A few economies are taking proactive steps to increase SME participation in PPCs – notably by establishing councils and associations for SMEs, which aim to ensure the full participation of SME representatives in consultations on important business-related initiatives.**

- **Most of the economies have introduced a single government portal to list all ongoing PPCs and make the views of participants in the consultation process available to the public.** However, there are few control mechanisms or co-ordinating institutions to ensure these portals are regularly updated and consistently used.

**Comparison with the 2016 assessment scores**

Overall, the WBT economies’ average score in this dimension on institutional and regulatory framework for SME policy making stands at 3.79. Compared to the score of 3.57 in the 2016 assessment, this indicates continuous, albeit slow, progress in this area. Like the previous assessment, the most advanced economies are Montenegro, Serbia and Turkey (Figure 3.1). The biggest improvement was made by Kosovo.

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* This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo’s declaration of independence.
**Figure 3.1. Overall scores for Dimension 3 (2016 and 2019)**

Note: Scores for 2019 are not directly comparable to the 2016 scores due to a methodological change increasing the focus on implementation. Therefore, changes in the scores may reflect the change in methodology more than actual changes to policy. The reader should focus on the narrative parts of the report to compare performance over time. See the Policy Framework and Assessment Process chapter and Annex A for information on the assessment methodology.

**Implementation of the SME Policy Index 2016 recommendations**

The region overall has made incremental progress between the two assessments, as confirmed by the continuous, if moderate, implementation of recommendations in the last SME Policy Index (Table 3.1).

**Table 3.1. Implementation of the SME Policy Index 2016 recommendations for Dimension 3**

<table>
<thead>
<tr>
<th>Overall 2016 recommendations</th>
<th>SME Policy Index 2019</th>
<th>Regional progress status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the implementation of dedicated SME strategies and action plans remains on track and develop policy monitoring and evaluation mechanisms in order to better monitor policy implementation and measure the impact of SME policies on the ground.</td>
<td>Most economies have established an advanced institutional framework for SME policy making: they have a well-developed SME strategy in place, they are implementing strategies according to plan and carrying out regular monitoring. The new SME strategies have been adopted in Montenegro and the Republic of North Macedonia. However, there has been no impact assessment of policies yet.</td>
<td>Moderate</td>
</tr>
<tr>
<td>Develop specific measures to address the informal economy in order to ease the transition of SMEs to the formal sector.</td>
<td>Efforts to fight the informal economy are mostly unaligned with the goals of the SME strategy, and limited to horizontal measures to reduce the costs of formalisation. Measures to combat informality have been introduced by the tax authorities, ministries of finance or employment agencies and target SMEs indirectly. North Macedonia is the only WBT economy to have introduced measures to combat the informal economy directly in its new SME Strategy (2018-2023).</td>
<td>Moderate</td>
</tr>
<tr>
<td>Address existing gaps in the availability and quality of SME statistical data and deepen the collection of business demographic data.</td>
<td>There have been some improvements between the two assessments in the amount of SME-related data collected. Major improvements were recorded in Kosovo and Montenegro, both in enhancing their data and increasing their indicators on SMEs. However, despite progress in most economies, key SME-specific data on innovation, access to finance, public procurement and SME greening are still not being collected.</td>
<td>Moderate</td>
</tr>
<tr>
<td>Action</td>
<td>Evaluation</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>------------</td>
<td></td>
</tr>
<tr>
<td>Improve the actual implementation of RIA to make sure that SME aspects are considered throughout the regulatory guillotine process.</td>
<td>The RIA process is still unevenly institutionalised and not consistently practised in the region, even though RIAs for major regulations are formally required in all seven WBT economies. Kosovo has updated its Draft Manual for Conducting RIA, and a cost-benefit analysis of new legislation has become a mandatory part of the RIA process. Albania introduced a requirement to conduct RIA for major regulations in 2018. Bosnia and Herzegovina formally introduced RIA into the policy development process at state level in 2017, but it has not yet been implemented.</td>
<td>Moderate</td>
</tr>
<tr>
<td>Increase the frequency and transparency of public-private consultations and strengthen SME participation to ensure that policy development is inclusive and meets private sector needs.</td>
<td>Most of the economies have strengthened the legal framework for PPCs. Some economies have taken proactive measures to increase SME participation in PPCs – Kosovo and Bosnia and Herzegovina have introduced a single government portal with a mandate to list all of the ongoing PPCs and make the views of participants in the consultation process available to the public. However, challenges like the urgent adoption of legislation without PPCs persist.</td>
<td>Moderate</td>
</tr>
</tbody>
</table>
Introduction

The institutional and regulatory framework for SME policy making corresponds to the overarching principle of the Small Business Act: “think small first” (EC, 2008[1]). This requires governments to take into account the costs and benefits of new legislation for small and medium-sized enterprises (SMEs) in the initial phase of policy development. In other words, rules and regulations that have an impact on the private sector need to be devised with consideration for the needs of SMEs.

A comprehensive and coherent SME policy framework has various direct benefits for SMEs: more secure business operations, less unfair competition, enhanced productivity, and more investment in research and development and in human resources (EC, 2007[2]). Indirect benefits for SMEs and the economy as a whole include the realisation of SMEs’ economic potential; a better business environment that benefits the entire business population regardless of size; improved skills for the working population; and better policies and practices at national, regional and local levels (EC, 2007[2]). An adequate regulatory framework thus helps SMEs to realise their innovative and competitive potential.

SMEs make up the vast majority of businesses and can be an important engine of economic growth and employment. But policy makers aiming to create a vibrant private sector need to bear in mind that SMEs are more at risk of incurring higher costs than larger enterprises when complying with administrative requirements. Therefore a one-size-fits-all approach cannot always be used, as business regulation has a greater impact on SMEs than on the large companies. As a European Union (EU) study has shown, SMEs are more affected by the costs of regulatory compliance than larger companies: while a large enterprise spends on average EUR 1 per employee to comply with a regulatory duty, a medium-sized firm spends approximately EUR 4, and a small one spends EUR 10 (EC, 2007[2]). This is mainly due to the fact that: 1) administrative costs for SMEs tend to be the same or similar to those of large companies – hence affecting SMEs disproportionately; 2) for the same reason, the costs of legal uncertainty are proportionately higher for SMEs than for large companies; and 3) while large companies can more easily afford to hire experts to efficiently and effectively support them in complying with regulatory requirements, for SMEs it is often the entrepreneurs who deal with regulations, diverting their valuable resources away from other business operations (EC, 2017[3]).

To adequately address SMEs’ needs, any policy approach must take these challenges into full consideration. An institutional and regulatory framework needs to be adapted to incorporate SMEs’ needs in order to facilitate their creation and growth.

Assessment framework

Structure

This chapter examines the quality of the SME policy framework by assessing how SME-friendly the institutional foundation for doing business is, whether SME needs are well reflected in existing and new laws and regulations, and if consultations take place on SME-related topics with the private sector. The analysis revolves around the following three sub-dimensions:

- **Sub-dimension 3.1: Institutional framework** examines how strong and business-enabling the institutional framework for SME policy making is. In
particular, it looks at a set of inter-related institutional mechanisms that are required to create a favourable business environment.

- **Sub-dimension 3.2: Legislative simplification and regulatory impact analysis** looks at whether a regulatory guillotine process exists; if there are frameworks to simplify and review business legislation (primary and subordinate), with a specific focus on SMEs (the SME test); and whether redundant business legislation is systematically eliminated.

- **Sub-dimension 3.3: Public-private consultations** assesses the frequency and transparency of consultations between the public and private sector. It asks whether there is a formal requirement to conduct PPCs, what form they are conducted in and how regularly they take place.

The assessment was carried out by collecting qualitative data with the help of questionnaires filled out by government officials and local experts, as well as face-to-face interviews with SME owners and managers (see Annex C). Another integral part of the assessment was compiling quantitative data on certain indicators provided by the economies’ statistical offices, environmental protection agencies and standardisation institutions.

Figure 3.2 shows how the sub-dimensions and their constituent indicators make up the assessment framework for this dimension. For more information on the methodology see the Policy Framework and Assessment Process chapter and Annex A.

**Figure 3.2. Assessment framework for Dimension 3: Institutional and regulatory framework for SME policy making**

<table>
<thead>
<tr>
<th>Outcome indicators</th>
<th>Sub-dimension 3.1: Institutional framework</th>
<th>Sub-dimension 3.2: Legislative simplification and regulatory impact assessment</th>
<th>Sub-dimension 3.3: Public-private consultations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory quality perception</td>
<td>Thematic block 1: Planning and design</td>
<td>Thematic block 1: Planning and design</td>
<td>Thematic block 1: Frequency and transparency of PPCs</td>
</tr>
<tr>
<td>Burden of government regulation</td>
<td>Thematic block 2: Implementation</td>
<td>Thematic block 2: Implementation</td>
<td>Thematic block 2: Private sector involvement in PPCs</td>
</tr>
<tr>
<td></td>
<td>Thematic block 3: Monitoring and evaluation</td>
<td>Thematic block 3: Monitoring and evaluation</td>
<td>Thematic block 3: Monitoring and evaluation</td>
</tr>
<tr>
<td>Quantitative indicators</td>
<td>Number of actions/activities implemented under SME strategies</td>
<td>Number of laws/regulations that have passed through the regulatory guillotine</td>
<td>Number of public-private consultation meetings held</td>
</tr>
</tbody>
</table>

**Note:** The outcome indicators serve to demonstrate the extent to which the policies implemented by the government bring about the intended results, and they have not been taken into consideration in the scoring. By contrast, quantitative indicators, as a proxy for the implementation of the policies, affect the overall scores.

**Key methodological changes to the assessment framework**

Since the 2016 report (OECD, 2016[4]) the assessment framework for Dimension 3 has been updated and slightly expanded to better capture the changes that the economies have undergone (Table 3.2).
For the first time it measures actions taken to combat the informal economy, with a view to supporting SME formalisation. It also pays more attention to the monitoring and evaluation part of legislative simplification and regulatory impact analysis, by including new questions on RIA quality control and the existence and effectiveness of the institution overseeing RIA implementation. Finally, in calculating the scores, more emphasis has been put on implementing policy frameworks. For more information on the methodology, see the Policy Framework and Assessment Process chapter and Annex A.

Table 3.2. Key changes in the composition of Dimension 3

<table>
<thead>
<tr>
<th>Sub-dimensions</th>
<th>Key changes since the 2016 assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-dimension 3.1 – Institutional framework</td>
<td>More emphasis on the informal economy.</td>
</tr>
<tr>
<td>Sub-dimension 3.2 – Legislative simplification and regulatory impact analysis</td>
<td>More emphasis on implementation and monitoring and evaluation.</td>
</tr>
<tr>
<td>Sub-dimensions 3.1 and 3.2</td>
<td>The weights of the thematic blocks in the overall scores have been altered. Greater focus has been placed on implementation (5% increase in the allocated weight).</td>
</tr>
</tbody>
</table>

Analysis

**Performance in institutional and regulatory framework for SME policy making**

Outcome indicators play a key role in examining the effects of policies, and they provide crucial information for policy makers to judge the effectiveness of existing policies and the need for new ones. Put differently, they help policy makers track whether policies are achieving the desired outcome. The outcome indicators chosen for this dimension (see Figure 3.2) are designed to assess the Western Balkan economies and Turkey’s performance in providing an institutional and regulatory framework that meets SMEs’ needs.

Despite the ongoing development of institutional frameworks and the simplification of business legislation, the private sector in the Western Balkan and Turkey region still perceives the institutional and regulatory framework to be of poor quality. According to surveys conducted with the private sector, it seems that regulatory quality, measured as the perception of businesses and other stakeholders of the ability of the government to formulate and implement sound SME policies and regulations, is well below the EU average (Figure 3.3).

Regulatory quality is one of six governance dimensions in the Worldwide Governance Indicators (WGI) project. The WGI compile and summarise information from over 30 data sources that report the views and experiences of citizens, entrepreneurs, and experts in the public, private and non-government sectors from around the world, on the quality of various aspects of governance.¹
Figure 3.3. Worldwide Governance Indicators: Regulatory quality in the Western Balkans and Turkey region (2016)

Note: Data ranged from approximately -2.5 (weak) to +2.5 (strong) governance performance. Last available data are from 2016.

StatLink http://dx.doi.org/10.1787/888933937432

In terms of perceptions of the regulatory burden on businesses in the region, the situation looks brighter. As Figure 3.4 shows, Albania, Montenegro and Turkey even outperformed their peers in the EU. However, the data need to be interpreted with caution; the findings are based on survey responses from enterprises of all sizes, including large companies.

Figure 3.4. Global Competitiveness Index 2017-2018: Burden of government regulation in the Western Balkans and Turkey region (2017)

Note: The indicator is based on businesses' answers to this survey question: “In your country, how burdensome is it for companies to comply with public administration requirements (e.g. permits, regulations, reporting)?” (1 = extremely burdensome; 7 = not burdensome at all). The 2017 edition captured the views of 14,375 business executives in over 148 economies between February and June 2017. Following the data editing process, a total of 12,775 responses from 133 economies were retained. No data for Kosovo and North Macedonia.
Institutional framework (Sub-dimension 3.1)

Having a well-developed SME strategy encompassing a set of policy priorities and measures with well-defined targets is a cornerstone of SME support initiatives – and a key precondition for creating a favourable business environment.

This section assesses the quality of the institutional framework as a basis for SME policy making in its planning, implementation, and monitoring and evaluation phase (Table 3.3). Since policy making is only effective if it is based on solid evidence, the section also looks at the quality of data collection and how well aligned the data definitions are with those used in the EU. Due to the specific inter-disciplinary nature of SME development policies and the various institutions involved in their design, implementation and monitoring, this section closely examines the quality of inter-governmental co-ordination, particularly when it comes to measures to combat the informal economy.

### Table 3.3. Scores for Sub-dimension 3.1: Institutional framework

<table>
<thead>
<tr>
<th></th>
<th>ALB</th>
<th>BIH</th>
<th>KOS</th>
<th>MKD</th>
<th>MNE</th>
<th>SRB</th>
<th>TUR</th>
<th>WBT averages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning and design</td>
<td>4.17</td>
<td>2.79</td>
<td>3.71</td>
<td>4.09</td>
<td>4.43</td>
<td>4.73</td>
<td>4.47</td>
<td>4.06</td>
</tr>
<tr>
<td>Implementation</td>
<td>4.13</td>
<td>3.09</td>
<td>4.53</td>
<td>3.73</td>
<td>4.27</td>
<td>3.93</td>
<td>4.73</td>
<td>4.06</td>
</tr>
<tr>
<td>Monitoring and</td>
<td>4.14</td>
<td>2.94</td>
<td>3.67</td>
<td>3.00</td>
<td>4.43</td>
<td>4.71</td>
<td>4.52</td>
<td>3.92</td>
</tr>
<tr>
<td>evaluation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Weighted average</strong></td>
<td>4.15</td>
<td>2.97</td>
<td>4.11</td>
<td>3.69</td>
<td>4.35</td>
<td>4.33</td>
<td>4.61</td>
<td>4.03</td>
</tr>
</tbody>
</table>

*Note: See the Policy Framework and Assessment Process chapter and Annex A for information on the assessment methodology.*

The WBT economies perform well in this sub-dimension. An average score of 4.03 indicates an advanced level of policy design and implementation. Compared to the previous assessment, Kosovo is the economy that progressed most (from 3.43 in 2016), mainly due to a continuous forward-looking SME-related framework with timely implementation, as well as monitoring mechanisms that allow for corrections and improvements.

**Institutional SME policy-making frameworks are mostly comprehensive with a good record of implementation**

Most economies in the region have established a well-developed strategic framework for SME policies. In 2018, Kosovo, North Macedonia and Montenegro developed new SME strategies containing clear, measurable and time-bound targets, and which are fully embedded in the national strategic frameworks. These strategies were built on previous SME strategies, and are in accordance with the SBA principles.

However, there have been delays in adopting these strategies, causing SME policy implementation to stagnate at times. It took Montenegro three years to adopt its new strategy (in July 2018). Nevertheless, SME support activities were carried out as part of
the accompanying action plan spanning 2015-2018. In North Macedonia, the latest SME strategy was developed in 2016 – three years after the previous one had expired – but it took two years to fully adopt.² Kosovo’s new SME strategy had not been adopted at the time of writing.

In the rest of the region, SME policies are well developed and being implemented according to plan. For example, Serbia has a well-developed SME strategy in place and renewed its commitment to improving the business environment in this assessment cycle by declaring 2016 the Year of Entrepreneurship. During that year Serbia launched 33 SME support programmes with a total budget of more than EUR 130 million. Following its success, the initiative has been expanded and renamed the Decade of Entrepreneurship.

SME policy implementation is ensured by dedicated SME institutions in each economy. Kosovo’s SME implementation agency, the Kosovo Investment and Enterprise Support Agency (KIESA), has been significantly reinforced since the last assessment; it had a budget increase of 40% and a staff increase of 20% between 2017 and 2018. Montenegro’s SME development agency, the Directorate for SME Development under the Ministry of Economy, was restructured at the beginning of 2018 to become the Directorate for Investments, Development of Small and Medium-Sized Enterprises and Management of EU Funds. The restructuring aimed to enhance its capacity both in terms of policy development and execution. Turkey’s SME Development and Support Organisation (KOSGEB) is a good example of a well-resourced SME agency covering a wide range of SME supporting projects and programmes, and has regional offices in all of Turkey’s 81 provinces. The Serbian Ministry of Economy is in charge of SME policy making and implementation, which it carries out in co-operation with various agencies, mainly the Serbian Development Agency (RAS). By contrast (and similar to the previous assessment) SME agencies in Albania, North Macedonia and the entity of the Republika Srpska in Bosnia and Herzegovina³ still need to be better resourced, especially financially. An over-reliance on donor funds causes delays to reforms, impeding the full realisation of planned activities. Bosnia and Herzegovina has no public agency to co-ordinate SME policy implementation and SME-related activities at the state level, as SME policies fall under the competence of the entities (for more information, see Annex B).

In most of the economies, SME policy implementation is monitored regularly, normally once a year. In Turkey, monitoring is performed twice a year, while in Serbia, the Ministry of Economy reports quarterly to the Council for SMEs, Entrepreneurship and Competitiveness. As an advisory body, the council was established during the previous assessment cycle; however, it only became operational in November 2017. In Kosovo, implementation of the SME strategy has been monitored by the European Integration and Policy Coordination Department within the Ministry of Finance, whereas KIESA has been reporting directly to the Minister of Trade and Industry. North Macedonia’s new SME strategy puts particular emphasis on monitoring; the government plans to establish a body for monitoring the policies and measures defined in the SME strategy, composed of relevant ministries, state and public institutions, business associations and employers’ organisations. However, it does not specify if this body will be in charge of producing annual reports or if the Ministry of Economy will undertake this task, as it has before.

There have been some delays in publishing regular reports on SME strategy implementation in the region. And while economies throughout the region regularly
conduct monitoring, they need to step up their evaluation efforts, which are largely non-existent.

SME definitions are aligned with the EU ones and consistently used

All the economies have consistent SME definitions in place that are fully aligned with the EU definitions: turnover and total assets criteria are adapted to the specific contexts of each economy.

Bosnia and Herzegovina still has three SME definitions in use: one in each entity and one in Brčko District. Each entity has two definitions of SMEs: one in the Law on Accounting and Auditing for accounting purposes, and another in the Law on Fostering Small Business Development for the purposes of providing financial support to SMEs. The definition for accounting purposes is the same in both entities and distinguishes between small, medium-sized and large companies. The Law on Accounting and Auditing provides clear criteria for micro enterprises in the Republika Srpska (RS), whereas the Federation of Bosnia and Herzegovina (FBiH) does not define them separately. Since the last assessment, RS has decreased the turnover and balance sheet thresholds in its second SME definition so as to harmonise it with the first one, which has made the two entities’ definitions according to both laws more comparable and coherent.

In 2018, Turkey amended its definition of SMEs, increasing the upper limit of annual net sales or any of the financial balance sheet items to TRY 125 million (Turkish lira; approximately EUR 16 million) annually from the previous TRY 40 million (EUR 5 million). This has resulted in about 9,000 additional enterprises qualifying as SMEs, i.e. those employing fewer than 250 employees, leaving only approximately 10,000 enterprises classified as large enterprises. According to the government, the main objective of amending the SME definition was to increase the number of enterprises that are eligible to apply for incentives so that those enterprises with higher technology levels and export capacity could also benefit from public support. However, applying a wide SME definition could potentially skew the allocation of Turkey’s public funding in favour of larger SMEs over the long term. As stated in the European Commission’s (EC) Inception Impact Assessment, larger enterprises are better positioned to take advantage of any support available due to their stronger market position and management structures (EC, 2017[7]). Therefore, if the distribution of funds to each size of enterprise is not systematically monitored, micro and small enterprises could be placed at a disadvantage.

Similar considerations are also at the forefront of the EC’s agenda. The EC is currently evaluating the SME definition with an aim to revise some aspects of it. As part of this initiative, an online three-month (February to May 2018) public consultation with all interested actors was conducted in order to gather feedback on the quality and the impact of the SME definition. A concern expressed by some stakeholders is that any expansion of the definition threshold could hamper financial support reaching those enterprises that are most in need of it (UEAPME, 2017[8]).

SME data collection could be further improved

SME policy making is becoming more evidence-based throughout the region. SME-related data are being collected regularly and certain improvements have been registered since the last assessment with regard to the amount of data collected. Progress is also being made in terms of quality and availability of SME-specific data. However, some gaps in data collection still persist (Table 3.4).
Although all economies collect key business demographics indicators by enterprise size class, and most collect them by sector as well, the key SME-specific data on innovation, access to finance, public procurement and SME greening are largely missing throughout the region. In addition, it seems that no particular attention is being paid to collecting data on high-growth enterprises, e.g. the share of “gazelles” as measured by employment growth. The limited availability and quality of these SME statistics points to weak monitoring of SME policy actions and exacerbates the challenge of developing evidence-based policy measures. This also hints at relatively weak inter-institutional co-ordination in the region.

Table 3.4. Statistics collected in the WBT economies

<table>
<thead>
<tr>
<th>Economy</th>
<th>Publicly available key SME statistics</th>
</tr>
</thead>
</table>
| Albania         | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  
|                 | • Value added by size class of enterprises and sector  
|                 | • Number of women-owned enterprises by size class  
|                 | • Share of exports by size class of enterprises  |
| Bosnia and Herzegovina | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  
|                 | • Value added by size class of enterprises and sector  
|                 | • Share of exports by size class of enterprises (only at the entity level)  |
| Kosovo          | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  
|                 | • Value added by size class of enterprises and sector  
|                 | • Share of exports by size class of enterprises  
|                 | • Number of women-owned enterprises by size class and sector  
|                 | • Enterprise birth, death and churn rate by size class  
|                 | • Share of 1-, 2-, 3-, 4- and 5-year-old enterprises by size class  |
| North Macedonia | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  
|                 | • Value added by size class of enterprises and sector  
|                 | • Share of exports by size class of enterprises  |
| Montenegro      | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  
|                 | • Value added by size class of enterprises  
|                 | • Share of exports by size class of enterprises  
|                 | • Number of women-owned enterprises by size class  
|                 | • Enterprise birth and death rate by size class  
|                 | • Share of less than 1-year-old enterprises by size class  
|                 | • Share of 1-, 2-, 3-, 4- and 5-year-old enterprises by size class  
|                 | • Share of enterprises older than 5 years and younger than 10 years by size class  
|                 | • Employment share of 0-3 year-old enterprises by size class  |
| Serbia          | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  
|                 | • Value added by size class of enterprises and sector  
|                 | • Share of exports by size class of enterprises  
|                 | • Enterprise birth and death rate by size class  
|                 | • Share of less than 1-year-old enterprises by size class  
|                 | • Share of 1-, 2-, 3-, 4- and 5-year-old enterprises by size class  
|                 | • Share of enterprises older than 5 years and younger than 10 years by size class  |
| Turkey          | • Number of enterprises by size class and sector  
|                 | • Employment by size class of enterprises and sector  |
Measures to address the informal economy lack co-ordination

Unfair competition from the informal economy represents one of the most serious perceived obstacles for doing business in the WBT region, and is a particular burden for smaller, local, market- and service-oriented businesses (EBRD, 2014[9]). This is especially the case in Albania, Kosovo and North Macedonia (Ibid.). In particular, more than 15% of all surveyed firms cited it as the number one obstacle, and more than one-quarter deem it a major or very severe obstacle (EBRD, 2014[9]; OECD, 2018[10]).

Given the strong link between informal practices and SME policies, it is important to approach the issue from a holistic perspective, achieving the appropriate alignment between horizontal measures and those set in the SME strategy. In the WBT economies, however, measures that aim at formalising businesses are often not aligned with the goals of the SME strategy and are limited to horizontal measures to decrease the costs of formalisation. There are both corrective and stimulative measures, and these are part of national programmes aimed at reducing the informal economy across all sectors. For instance, the Albanian government has a campaign to combat the informal economy which involves strengthening administrative measures and sanctions against informal businesses. In Serbia, a National Programme to Combat the Grey Economy was adopted in 2015, and 2017 and 2018 were declared years for fighting the informal economy. The focus of the programme is on reforming the fiscal system, improving companies’ and citizens’ overall awareness of the importance of combatting the grey economy, and reducing administrative and parafiscal burdens on businesses. Although this final objective is well harmonised with the SME strategy goals, no link between the two documents’ objectives and the related measures has so far been made.

North Macedonia is the only WBT economy that has introduced measures to combat the informal economy in its new SME strategy. The main focus is on raising awareness of the harmful nature of the informal economy. The government plans to design and roll out awareness and information campaigns in 2018 and 2019 on the benefits of formalisation, and to facilitate business registration and obtaining necessary permits and licences. In addition to these measures, in March 2018 the government adopted a new strategy – Formalisation of the Informal Economy 2018-2022 – and tasked the Ministry of Labour and Social Policy with implementing it. An action plan for 2018-20 has been prepared and adopted, containing 29 measures in total. A new co-ordination body will co-ordinate the implementation process. The ministry will prepare joint annual progress reports with the co-ordination body. The measures are mostly incentives involving financial support programmes that aim to formalise informal businesses.

Raising awareness of the importance of reducing the informal economy is one of the key components of the Turkish Action Plan for Reducing the Informal Economy (2014-2018) – as part of the National Tenth Development Plan. In addition to this, policy makers in Turkey have expanded the financial incentives offered to formal businesses, including substantial social security contribution cuts for newly hired workers and corporate tax allowances for up to 55% of eligible investment costs (OECD, 2018[10]). Kosovo set similar targets in its National Strategy for the Prevention of and the Fight against Informal Economy, Money Laundering and Terrorist Financing (2014-2018): increased awareness on the harmful nature of the informal economy and sanctions against tax
evasion. Punitive measures concerning the grey economy are in place in Montenegro, such as increased tax inspections, more rigid controls and penalties.

The way forward for the institutional framework

The Western Balkan economies and Turkey exhibit an increasingly sophisticated institutional framework for SME policy making. In order to further strengthen the effectiveness of the SME policies, the governments should:

- **Widen SME data collection and address existing gaps in the availability and quality of SME statistical data.** Although data gathering has improved in this assessment cycle, certain gaps remain which hamper the effective monitoring and evaluation of SME policy measures and suggest weak inter-institutional co-ordination in the region. In particular, key SME-specific data on innovation, access to finance, public procurement and SME greening are largely missing throughout the region. WBT governments are advised to enhance capacity-building efforts targeting their statistical agencies and other institutions that gather SME-specific data so as to increase the level of detail of statistics and improve data availability. Governments could improve their inter-institutional co-ordination on SME-specific data collection, for instance by creating a unit or appointing a co-ordinator, preferably within the national statistical office, to control the collection process and ensure data are available and accessible.

- **Take a bottom-up approach to undertaking changes to SME definitions.** Although the definition of SMEs seems mainly relevant for statistical purposes, its real importance lies in assessing SMEs’ broader contribution to the economy, and subsequently in devising strategies and support programmes for them. The criteria currently used in the Western Balkans and Turkey have undergone several revisions in the last decade, mainly with the objective of aligning with the EU definition so as to harmonise data collection. These revisions are primarily related to financial thresholds (balance sheet and turnover), by adapting them to the inflation rate and exchange rate fluctuations. Yet less consideration in the region has been given to broader impact of changing these definitions on SMEs and the public support programmes targeted at them. It is therefore advisable to consult a wide range of stakeholders before making even small adjustments to the SME definition. This would allow an assessment of the potential impact on SMEs in terms of practical difficulties and administrative burdens, as well as on beneficiaries of existing support programmes.

Legislative simplification and regulatory impact assessment (Sub-dimension 3.2)

Regulatory reform is an indispensable part of creating a more favourable business environment, requiring all existing and new laws and regulations to be examined through the lens of the private sector in order to systematically determine their costs, benefits and social impacts. Regulatory reviews also contribute to significant cost savings to SMEs by decreasing the administrative burden. An effective regulatory review and RIA process can help policy makers ensure that legislation and regulations are SME friendly, and that government initiatives successfully address businesses’ needs.

This section examines efforts to review, simplify and eliminate redundant, burdensome or simply outdated business-related legislation. It then considers whether *ex-ante*
mechanisms are in place to assess the impact of new regulations on SMEs (RIA), and whether SME tests are embedded into its methodology. The evaluation covers all the stages of policy development: planning, implementation, and monitoring and evaluation (Table 3.5).

Table 3.5. Scores for Sub-dimension 3.2: Legislative simplification and regulatory impact analysis

<table>
<thead>
<tr>
<th></th>
<th>ALB</th>
<th>BIH</th>
<th>KOS</th>
<th>MKD</th>
<th>MNE</th>
<th>SRB</th>
<th>TUR</th>
<th>WBT average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning and design</td>
<td>3.24</td>
<td>2.24</td>
<td>4.20</td>
<td>5.00</td>
<td>4.60</td>
<td>4.20</td>
<td>4.49</td>
<td>4.00</td>
</tr>
<tr>
<td>Implementation</td>
<td>2.76</td>
<td>2.10</td>
<td>2.83</td>
<td>3.40</td>
<td>4.00</td>
<td>4.09</td>
<td>3.60</td>
<td>3.25</td>
</tr>
<tr>
<td>Monitoring and evaluation</td>
<td>1.51</td>
<td>1.71</td>
<td>3.27</td>
<td>4.20</td>
<td>4.47</td>
<td>4.20</td>
<td>3.25</td>
<td>3.23</td>
</tr>
<tr>
<td><strong>Weighted average</strong></td>
<td>2.65</td>
<td>2.06</td>
<td>3.33</td>
<td>4.04</td>
<td>4.27</td>
<td>4.15</td>
<td>3.80</td>
<td>3.47</td>
</tr>
</tbody>
</table>

*Note:* See the Policy Framework and Assessment Process chapter and Annex A for information on the assessment methodology.

As shown in the table, the average score for the region is 3.47, compared to 3.31 in 2016, which underlines the slow progress made in this area. As in the previous assessment, the top performers remain North Macedonia, Montenegro and Serbia due to their continuous and comprehensive legislative simplification actions and RIA processes. The economy that has progressed most is Kosovo, due to its intensified efforts regarding both regulatory guillotines and regulatory impact assessment, mainly through activities under the new Better Regulation Strategy.

All the economies have made regulatory reform efforts to simplify legislation

Regulatory reviews are an essential pillar of SME strategies across the WBT region. The scope of the regulatory reform implementation efforts in the region, however, differs across economies. As with other policy aspects concerning the institutional and regulatory framework, monitoring and evaluation of regulatory review activities remains an outstanding issue for the majority of economies. There is no regular tracking of the scope of the reviewed and simplified legislation and there are regular reporting delays.

Legislative simplification is systematically undertaken in Albania, Kosovo, Montenegro, North Macedonia and Serbia. In North Macedonia, a regulatory guillotine has been applied since 2006 and the efforts to review and simplify business-related legislation and regulations have resulted in improving the business environment. It has carried out the second largest number of business regulation reforms (41) of the top 20 countries in the World Bank’s *Doing Business* list (World Bank, 2017[11]).

Since the previous assessment, Kosovo has strengthened efforts to review primary and subordinate business-related legislation through the updated Better Regulation Strategy 2.0 (2017-2021), with more than 60% of the primary business-related legislation reviewed since it began. Serbia’s Strategy for Regulatory Reform 2016-2020 is the key strategic document for legislative simplification. By September 2018 this process had identified around 2 000 pieces of business-related legislation for simplification; these will be held in a unique and centralised database of all business-related legislation in order to track the implementation of regulatory reform (Box 3.1).
Larger-scale reviews of legislation have also been carried out in Montenegro. Since the beginning of the reform implementation in 2009 until the end of the third quarter of 2017, 1,246 of 1,446 recommendations stemming from the regulatory guillotine process – i.e. around 90% of them – were completed. A similar comprehensive regulatory reform was undertaken in Albania, where the emphasis was placed especially on simplifying the registration process and streamlining permits and licences. Most notably, fees have been eliminated for all the procedures carried out at the electronic service window of the National Business Centre, which serves as the Albanian one-stop shop.

**Box 3.1. Serbia’s legislative reviews under the regulatory reform strategy**

The Strategy for Regulatory Reform 2016-2020 is the key strategic document in the area of legislative simplification. This document establishes the strategic guidelines over the coming five years for creating a more efficient and effective public administration, maximising the benefits for citizens and businesses. The strategy is also aimed at implementing the Public Administration Reform Strategy, thereby completing the overall reform process in this field.

The overall goal of the strategy is to create a system for managing public policies and legislative processes based on facts and data and the principles of good regulatory practice. The four specific objectives of the strategy are: 1) improving the public policy management system; 2) improving the legislative processes and quality of regulations; 3) simplifying administrative procedures; and 4) improving the role of citizens and the economy in the system of managing public policies.

As part of this process, a review of all legislation is currently in progress. So far, about 2,000 pieces of business-related legislation have been found in 600 different documents. The final result will be a unique and centralised database of all business-related legislation. In this context, the government recently signed an agreement with the International Finance Corporation to implement a Business Environment Improvement Project until 2021. The aim of the agreement is to reduce the administrative procedures that business entities face through the analysis of 1,750 administrative procedures related to doing business and providing suggestions for their simplification, optimisation or abolition. One of the goals is to enable 100 procedures to be carried out electronically.

The project is expected to realise savings of at least USD 8 million for the business sector and increase competition by removing at least two anti-competition practices in selected fields. Creating a better business environment will help to increase in investment, including direct foreign investment, and strengthen competitiveness, employment and the standard of living.


In Turkey, the legislative simplification measures were included in the Action Plan of the Programme for Reducing the Informal Economy (2014-2018), as well as in the actions undertaken by the Prime Minister’s Office. In particular, in 2014, the Office of the Prime Minister launched the Reduction of Bureaucracy and Simplification of Legislation Initiative (BAMS). As a result of BAMS, 348 amendments have been made to business-
related regulations, 3 148 documents have been eliminated from various application processes and a number of business-related services have been moved to an electronic medium. During the assessment period, the efforts under the BAMS initiative mainly concentrated on digitalising public services at the national and local level with a view to reducing the administrative burden on businesses.

In Bosnia and Herzegovina, legislative simplification is being undertaken at the entity level. Implementation has been particularly successful in the Republika Srpska, where a regulatory guillotine has been continuously performed since 2009, eliminating 25% of unnecessary formal procedures for businesses and 60% of redundant inspection procedures. In the FBiH over the same period, the application of a regulatory guillotine has led to the simplification of 65% of all business permits identified for simplification, with significant savings for the private sector. However, since the last assessment the intensity of the reviews and simplification efforts has declined, as most actions happened in the first five years of the implementation of the regulatory guillotine in both entities.

Regulatory impact analyses are not consistently institutionalised or practised

Regulatory impact analysis for major regulations is formally required in all seven WBT economies. Montenegro, North Macedonia and Serbia are the best performers since their policy-making systems include elements of full RIAs, with an SME test becoming part of their methodology (introduced in Serbia during 2018 and planned as part of the new SME strategies in Montenegro and North Macedonia), as well as quality control of impact assessments. In these three economies RIAs are also supported by clear guidelines and published on line. Nevertheless, all three economies could further improve their implementation of RIA (OECD/SIGMA, 2017[13]; OECD/SIGMA, 2017[14]; OECD/SIGMA, 2017[15]). Namely, in North Macedonia, despite the fact that the regulations oblige line ministries to perform ex-ante policy analysis, RIAs are often not performed, and the expected financial impacts are not properly calculated (OECD/SIGMA, 2017[13]). In all three economies, the institutions in charge of RIA quality control lack the mandate to perform the task effectively. They do not have the formal right to return RIAs to line ministries, or require that they improve their justification for and analysis of a proposal, before it can be sent for adoption by the government (OECD/SIGMA, 2017[13]). In Montenegro, however, the responsible institution – the Ministry of Finance – has a full mandate to provide a negative opinion if the analysis does not meet the requirements. According to the ministry’s own report, this right is actually used very rarely, as 91% of draft laws get a positive opinion.

The rest of the economies have undertaken some actions on RIA, but need to do more with regard to both design and implementation. Kosovo has intensified efforts to improve RIA practices through its Better Regulation Strategy 2.0 (2017-2021). In particular, it has updated its Draft Manual for Conducting RIA, with the main novelty being a cost-benefit analysis of new legislation; this is now a mandatory part of the RIA process. However, as underlined by the OECD (2018[16]), only a minority of draft laws are accompanied by the mandated background analytical document.

In Albania, following unsuccessful attempts between 2009 and 2014, a requirement to conduct RIA for major regulations was introduced in April 2018. To start the RIA implementation, the Albanian Council of Ministers selected two laws for which the full RIA was practised. In 2018, a total of 11 RIAs were carried out. In Turkey, a full RIA is formally required for business-related legislation whose probable annual effects are above TRY 30 million (EUR 5.1 million). A partial assessment is required for draft legislation
which falls below this threshold. However, as a previous OECD study has shown, in practice RIA is not conducted regularly, and even those draft laws with expected effects larger than TRY 30 million lack appropriate impact analyses (OECD/SIGMA, 2017[17]). The same study also showed that there was no evidence of a systematic review of policy proposals against set government priorities or of the quality of RIA performed by the initiating ministry (OECD/SIGMA, 2017[17]). During the reference period the RIA thresholds were changed. They had been set at TRY 10 million (EUR 1.7 million), before they were raised to the current level in 2016. This change is expected to reduce the already relatively low frequency of RIAs in Turkey.

In Bosnia and Herzegovina, regulatory impact analysis was formally introduced into the policy development process at the state level in July 2017, but has not yet been implemented. At the entity level, there has been a requirement to conduct RIA since 2014 in the FBiH and since 2015 in the RS. Both entities provide clear and comprehensive RIA guidelines, including examples of RIA files, and are available on line (OECD/SIGMA, 2017[18]). The quality of the RIA process is, however, not satisfactory. In the FBiH, only 27% of draft laws were actually supported by RIA or another type of analysis in 2017 (Ibid.). In the RS, the responsible institution for RIA, the Ministry of Economic Relations and Regional Co-operation, does not have a formal right to return low-quality RIAs to the originating ministry. On a positive note, the RS administration did produce RIAs for all regulations stipulated by law in 2017. However, these were mostly “short” RIAs, which offered only limited policy analysis (OECD/SIGMA, 2017[18]).

The way forward for legislative simplification and regulatory impact analysis

In order to improve legislative simplification processes and make RIAs more effective, policy makers in the WBT economies should:

- **Establish mechanisms to closely examine the effects of policies on the SME community.** Any backward- or forward-looking assessment of policies should analyse whether SMEs are disproportionately affected or disadvantaged compared to large companies. If so, alternative mechanisms or flexibilities in approach that might help SMEs to comply should be considered when reviewing the policy initiative (EC, 2017[19]). The SME test, developed by the EC, is a practical example of how to undertake a forward-looking impact assessment for SMEs (Box 3.2). The EC actively encourages EU countries and other EU institutions in the policy-making process to systematically apply the SME test. Although SME tests are embedded in policy frameworks in most of the WBT economies, they need to be better implemented, and the technical capacity of public officials undertaking them needs to be enhanced.

- **Ensure that regulatory impact analysis findings have binding consequences.** Across the WBT region, when governments prepare RIA reports on proposed legislations, there is no legal obligation for the institution which proposed it to comply with the RIA and introduce mitigating measures. This makes RIA a box-ticking exercise, since the findings do not result in tangible modifications of the proposed legislation. In order to make the assessment process as effective as possible and decrease the potential disproportionate regulatory burden on SMEs, a legally binding mechanism for implementing RIA findings is needed. For example, in 2014 the UK government introduced a Small and Micro Business Assessment (SaMBA), which is applied to major regulatory proposals and requires impact assessments to analyse the potential impact of the proposed
regulation on small and micro businesses. Part of the Regulatory Policy Committee’s “fit for purpose” rating of impact assessments includes an evaluation and analysis of the adequacy of the SaMBA. If any disproportionate burdens are discovered by the SaMBA, small businesses must be exempt from regulations, or steps to mitigate any disproportionate impact need to be taken. The default assumption under SaMBA is that there will be a legislative exemption for small and micro businesses where a large part of the intended benefits of the measure can be achieved without including them. This way, micro and small enterprises can be confident that they will not bear disproportionate regulatory burdens as a result of new regulation (EC, 2014[20]).

- Systematically conduct, in co-operation with the business sector, the regulatory review and simplification process and monitor it regularly. Economies should renew business regulations in close dialogue with the business community by identifying those areas that businesses perceive as the most burdensome, and propose measures to simplify them (Box 3.3). The economies should ensure that the process of simplifying legislation is continuous and systematic, following an annual plan and programme; when modifications arrive unexpectedly, this imposes an unnecessary additional burden on SMEs. Data on the proportion of business-related legislation that has been reviewed should be collected in a systematic manner and regular monitoring of the effects of these actions on the business environment should be regularly undertaken. This will ensure effective implementation. Corrective action should be introduced if needed.

Box 3.2. The SME test: How to measure the impact of regulations on SMEs

For each policy option, the cost and benefit distribution of the proposals on a given size of business (differentiating between micro, small, medium-sized and large enterprises) should be analysed qualitatively and, if possible and proportionate, quantitatively. A one-size-fits-all approach for SMEs has so far not proved effective or efficient, since the impact on micro enterprises is likely to differ substantially from the impact on medium-sized ones. Therefore, where relevant and feasible, costs and benefits accruing to each size class of SMEs should be presented and analysed separately. It is equally important to assess the impacts of SME-specific or mitigating measures, where they already exist. Quantifying costs and benefits is often difficult and evidence sources should be used to the maximum, such as studies, stakeholder consultations and calls for evidence.

SMEs need to be taken into consideration in each analytical step of better policy making. The SME test has four steps: 1) identifying affected businesses; 2) consulting SME stakeholders; 3) measuring the impact on SMEs; and 4) assessing alternative mechanisms and mitigating measures.

Any measure is likely to have direct and indirect impacts on SMEs – both positive and negative. The direct benefits, such as improved working conditions, increased competition and so on should (at some stage) be reflected in reduced costs to SMEs. Yet these benefits may be offset by various regulatory costs, some of which may be disproportionately felt by SMEs:

- **Compliance costs** – created by the obligation to pay fees or duties, and costs created by the obligation to adapt the nature of the product/service and/or
production/service delivery process to meet economic, social or environmental standards (e.g. the purchase of new equipment, training of staff, additional investments).

- **Administrative costs** – created by the obligation to provide information on the activities or products of the company including one-off and recurring administrative costs (e.g. resources to acquire or provide information). This type of cost can be expressed in working hours to make comparisons across EU Member States easier.

The cost and impact identified for SMEs should be compared with those of large enterprises. This can be done by dividing the overall costs identified by the number of people employed to obtain the average cost per employee. Possible impacts on barriers to entry, competition in the market and market structure, as well as on innovation should also be considered.


**Box 3.3. Denmark’s Business Forum for Better Regulation**

The Business Forum for Better Regulation was launched by the Danish Minister for Business and Growth in 2012. Its objective is to ensure that business regulation is renewed in close dialogue with the business community by identifying those areas that businesses perceive as the most burdensome, and propose simplification measures. The measures might cover changing rules, introducing new processes or shortening processing times. The forum’s definition of “burden” is broad; besides administrative burdens it includes compliance costs and adaptation costs (the “one-off” costs of adapting to new and changed regulation).

Members of the Business Forum comprise industry and labour organisations, businesses and experts on simplification. They are invited by the Ministry for Business and Growth either in their personal capacity or as a representative of an organisation. Forum meetings are held three times a year to decide which proposals to send to government. So far, proposals have covered 13 themes, ranging from the employment of foreign workers to barriers to growth. Interested parties may also submit proposals for potential simplifications through the forum’s website. All information on meetings and the resulting initiatives is available online.

Proposals from the Business Forum are subject to a “comply or explain” principle, meaning that the government must either implement the proposed initiatives or justify why they are not implemented. As of October 2016, 603 proposals had been sent to the government, of which so far 191 have been fully and 189 partially implemented. The value of the accumulated annual burden reduction of some initiatives has been estimated at DKK 790 million (Danish krones; EUR 106 million). Information on the progress of implementing all the proposals is available on the forum’s website. The results are updated three times a year. The Business Forum publishes annual reports on its activities, while the Danish Minister for Business and Growth sends annual reports on its activities to the Danish parliament.

Sources: OECD (2017[21]), OECD Best Practice Principles on Stakeholder Engagement in Regulatory Policy; Business Forum for Better Regulation (2018[22]), Business Forum for Better Regulation website,
Public-private consultations (Sub-dimension 3.3)

Effective public-private consultations (PPCs) lead to improved SME policy making, as they bring private sector expertise, perspective and ideas into policy design and implementation. Engaging SMEs in the regulatory process helps increase the transparency and openness of the process, ensuring that SME needs are properly addressed and that the regulation serves their interests (OECD, 2017[31]). Increased transparency and stronger engagement by the private sector leads in turn to a greater acceptance of government programmes and projects and enhances trust in government institutions (OECD, 2018[16]). Since SMEs are usually less organised and not always members of the business associations which are regularly included in PPCs, it is vital for effective SME policy making to ensure that SMEs’ voices are also heard in this process and their needs are tackled appropriately. It is also important to highlight that consultations with the private sector should take place within a formal structure and at all stages of policy making, from preliminary discussions on potential legislation to monitoring and evaluation of a given policy (OECD, 2016[4]).

This section evaluates PPCs through three thematic blocks. First, it considers the frequency and transparency of PPCs for SME policy making. Second, it analyses to what extent and through what mechanisms private sector representatives (in particular of SMEs) are involved in PPCs, and whether their feedback is taken into account. It also looks at how easy it is for SMEs to find relevant PPCs, for instance through central online portals. Finally, it examines whether regular monitoring and independent reviews of PPCs are undertaken to improve the consultation process (Table 3.6).

Table 3.6. Scores for Sub-dimension 3.3: Public-private consultations

<table>
<thead>
<tr>
<th></th>
<th>ALB</th>
<th>BIH</th>
<th>KOS</th>
<th>MKD</th>
<th>MNE</th>
<th>SRB</th>
<th>TUR</th>
<th>WBT average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency and transparency of</td>
<td>3.44</td>
<td>2.84</td>
<td>4.38</td>
<td>4.42</td>
<td>4.29</td>
<td>4.36</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private sector involvement in</td>
<td>4.50</td>
<td>3.09</td>
<td>4.40</td>
<td>4.50</td>
<td>4.68</td>
<td>4.33</td>
<td>4.33</td>
<td>4.26</td>
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<tr>
<td>PPCs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monitoring and evaluation</td>
<td>2.33</td>
<td>1.67</td>
<td>3.67</td>
<td>1.67</td>
<td>2.33</td>
<td>3.67</td>
<td>3.77</td>
<td>2.73</td>
</tr>
<tr>
<td>Weighted average</td>
<td>3.64</td>
<td>2.71</td>
<td>4.25</td>
<td>3.90</td>
<td>4.05</td>
<td>4.21</td>
<td>3.79</td>
<td>3.79</td>
</tr>
</tbody>
</table>

Note: See the Policy Framework and Assessment Process chapter and Annex A for information on the assessment methodology.

In this assessment, the regional average for public-private consultations is 3.79, indicating that policy frameworks are in place, and there is some concrete evidence that effective policies for PPCs are being implemented. Kosovo, Serbia, and Montenegro are the regional leaders in this policy area.
PPCs are still not carried out consistently, despite formal requirements to do so

The WBT governments have continued their efforts to institutionalise consultations with SMEs. With the exception of Turkey, all the economies have legal and regulatory frameworks in place that define the general principles and procedures for conducting PPCs (OECD, 2018[16]). In Turkey’s RIA Guide, consultation with all related stakeholders is encouraged, but not mandatory.

All business-related legislation in the region (both primary and subordinate) is subject to consultation. In Kosovo, Montenegro, North Macedonia and Serbia, some other relevant documents are open for consultation as well, such as RIA reports or certain strategies. According to the OECD (2018[16]), nearly all the economies require ministries to report the outcomes of consultations and to publish reports on them, including suggestions that were accepted and those that were not, and, if not, specifying the reasons. Despite the formal requirement to conduct PPCs, however, the quality of the consultation process differs greatly from economy to economy and from ministry to ministry. One positive example of consulting with key stakeholders is the way that the SME development strategies have been adopted across the entire region. Public-private consultations were uniformly held prior to their adoption, the private sector had enough time to provide comments, and almost all the PPC outcome reports were published.

Although there is a formal requirement to conduct PPCs for major regulations, it is common practice throughout the region to adopt most government acts through an urgent procedure. If a piece of legislation is pronounced “urgent”, then no consultations are conducted. For instance, the latest data on this subject, published in the Regulatory Index of Serbia for 2017/2018, show that 60% of laws relevant for business did not go through a public hearing in 2017, 90% were made by urgent procedures and half of the draft laws were not available on the relevant ministries’ websites (USAID/NALED/URP, 2018[23]). Table 3.7 presents the share of laws adopted via an urgent procedure in the WBT economies in 2016.

Table 3.7. Share of laws adopted through a shortened procedure circumventing PPCs in the WBT region (2016)

<table>
<thead>
<tr>
<th>WBT economy</th>
<th>% of laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>5</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>58</td>
</tr>
<tr>
<td>Kosovo</td>
<td>19</td>
</tr>
<tr>
<td>Montenegro</td>
<td>9</td>
</tr>
<tr>
<td>North Macedonia</td>
<td>70</td>
</tr>
<tr>
<td>Serbia</td>
<td>65</td>
</tr>
<tr>
<td>Turkey</td>
<td>83</td>
</tr>
</tbody>
</table>

More councils have been set up to facilitate consultations, but not all are effective

A number of councils have been formed in the WBT region to serve as forums for consultations and to institutionalise the process. Nevertheless, the quality of their work varies significantly across the region. In Albania, Kosovo and North Macedonia, councils established as designated bodies to deal with recommendations from the private sector do not seem to function regularly. For example, there are no formal records of the activities of the Albanian National Economic Council, such as the number of consultations held in previous years or the level of private sector participation.

In North Macedonia the National Entrepreneurship and Competitiveness Council, established as a tripartite public-private-civil society body, had its most recent formal activity in December 2016. North Macedonia’s new SME strategy envisages introducing a National SME Association – a body whose aim is to represent the interests of SMEs in policy making, implementation and evaluation. The association will take over the role of the National Council for Entrepreneurship and Competitiveness – however, it is not clear whether this council will continue to exist (Ministry of the Economy, 2018[25]).

Kosovo’s National Council for Economic Development, reintroduced in 2015, has yet to become operational; as in Albania, there are no records of its activities. After holding seven meetings, it ceased to convene in December 2016.

On a positive note, Montenegro formed the Council for Competitiveness in 2017 – a body consisting of government, business sector and academia representatives and chaired by the Prime Minister. The council is a successor to the previous Council for Improvement of Business Environment and Regulatory Reform, and aims to ensure solid regulatory reform and greater involvement of all interested parties in developing business-related legislation. It meets regularly, and reports on its activities and meeting outcomes are publicly available.

Serbia formed the Council for SMEs, Entrepreneurship and Competitiveness in 2015, but it has been mostly inactive since the beginning of 2018. Turkey also has councils to facilitate consultations with interested parties. For instance, the Entrepreneurship Council, established in 2012, consists of public, private and academia representatives and is chaired by the Minister of Trade. It meets at least once a year to develop entrepreneurship through different initiatives. Turkey also has committees consisting of representatives of private sector associations and businesses. The Ministry of Industry and Technology works with several technical committees, which are consulted prior to adopting technical legislation or sectoral strategies. There is no state-wide council in Bosnia and Herzegovina, though there is a council in the Republika Srpska.

The private sector mostly participates in PPCs via business associations

Throughout the region, participation in PPCs is open to all interested participants. SMEs mostly take part in consultations through business associations, namely chambers of commerce. SMEs have a formal right to contribute to meeting agendas and usually have enough time to provide their feedback on the piece of legislation that is subject to consultation – except for cases of urgent adoption of legislation. Through the business associations, SMEs can even formally call for exceptional consultative meetings if deemed necessary, although this is rarely observed in practice. For instance, in the Republika Srpska, the business community took the initiative to propose certain measures to the government to improve the business environment. These proposals were taken into
full consideration when developing the Republika Srpska’s Economic Reform Programme 2017-2019.

In most of the economies, the private sector is systematically informed in advance that a consultation is to take place. However, since this tends to be done through business associations and SMEs are not always members, SME participation in PPCs is often limited. Public-private consultation calls do not reach SMEs as there are rarely mechanisms in place to do so.

To overcome this challenge, the economies are taking some proactive measures to improve their outreach. The Serbian Chamber of Commerce has established a Council for SMEs that gathers SME representatives, even those that are not chamber members, and ensures their full participation in consultations on important business-related initiatives. The Government of Montenegro organised a Business Caravan while it was developing the new MSME strategy. The caravan visited a number of municipalities in Montenegro, providing an opportunity for SME representatives to share their views on the draft strategy and voice their needs and potential concerns (see Box 3.4). In North Macedonia, one of the main objectives of the new SME strategy is to strengthen consultation and dialogue mechanisms with the private sector. It places special emphasis on enhancing private sector participation in policy development – particularly including female entrepreneurs in consultation processes and ensuring that micro enterprises’ voices are heard. The National SME Association (see the section above) could play a decisive role in ensuring that this objective is achieved, by focusing on micro and small enterprises in particular.

Box 3.4. Montenegro’s Business Caravan – reaching out to SMEs for a better business environment

Preparations for the new MSME Development Strategy in Montenegro started with a “Business Caravan” in March 2017. The Business Caravan was a set of meetings with private sector representatives, organised by the Ministry of Economy in co-operation with the United Nations Development Programme, which aimed to gather SMEs’ insights into the quality of the current SME support programmes and government measures. Over the course of 15 months, the government (led by the Minister of Economy herself) held meetings in 14 Montenegrin municipalities with private sector representatives to discuss SME policies’ strong and weak points and potential avenues for improvement.

One of the main catalysts for the caravan was SMEs’ weak participation in support programmes and public-private consultations in general. The Business Caravan is a mechanism to reach out to SMEs and contact them directly. Local SMEs were contacted through local municipality offices and the SME response to these meetings was substantial. The presence of ministers in the meetings added weight to discussions and encouraged entrepreneurs’ active participation, who shared their opinions, suggestions and observations.

The SMEs’ feedback was methodically collected and analysed by experts from the Ministry of Economy, which took the lead in drafting the new SME development strategy. It produced a report with an overview of the suggestions that were accepted and included in the strategy, as well as those that were not, with a clear explanation for the decision.

Sources: Data provided by the Government of Montenegro as part of the SBA Assessment; Vijesti (2017[26])
Most economies have introduced centralised online PPC platforms, but they are underused

All the economies except Turkey have introduced a single government portal to list all ongoing PPCs in one place, and to make the views of participants in the consultation process public.

The most recent is in Kosovo, where a new web portal for written public consultations was launched in early 2017; this has improved line ministries’ consistency in the way they conduct written public consultations. Likewise, Bosnia and Herzegovina has introduced a centralised e-consultation portal since the last assessment, which lists all PPCs – although only those concerning institutions at the state level. The number of institutions that use the e-consultation portal has increased – from 25 in 2016 to 37 in 2017 and to 39 in 2018 (Council of Ministers BiH, 2018[27]).

However, no economy uses its portal consistently. Although each institution proposing a new piece of legislation is obliged to publish information on the PPC process on their dedicated website and the centralised government portal, in practice this is rarely done. It is left up to the discretion of each institution whether to advertise the existence of these drafts or not. Throughout the region there are no control mechanisms or co-ordinating institutions to ensure regular updates and consistent use of the portals.

Systematic efforts to improve PPCs’ quality and effectiveness are generally lacking

No government in the WBT region monitors public-private consultations in a systematic manner. In other words, there are no bodies that oversee the implementation of consultations and check them for quality. Some initiatives in this direction have been introduced in Kosovo, where the Office for Good Governance was created in 2017 within the Office of the Prime Minister to monitor the execution and outcomes of the public-private consultation process (OECD, 2018[16]). The first monitoring report was prepared in May 2018 (Box 3.5). However, while the office is tasked with preparing an annual report on the public consultation process, it does not consistently check whether draft proposals comply with public consultation requirements before the proposals are submitted to the government for decisions.

Box 3.5. Monitoring PPCs in Kosovo

Kosovo’s first annual report on the public-private consultation process presents the results for 2017. Based on the Minimum Standards for the Public Consultation Process (Regulation No. 05/2016), the report was prepared by the Office for Good Governance in co-operation with all the institutions involved in the legislative development process.

In 2017, the Office for Good Governance established co-ordination structures involving public consultation co-ordinators in each ministry. It also carried out capacity-building activities, such as two rounds of on-the-job training on PPCs, using the electronic PPC
platform and numerous information workshops. Introducing the electronic public consultation platform was one of the most important steps the government has taken to facilitate PPCs.

As shown in the report, 221 documents (90% of the total) approved by the government were open for PPC through the online PPC platform in 2017. These included 40 draft laws, 46 draft regulations, 92 draft administrative instructions, 25 concept papers, 9 draft strategies and a few minor proposals. In addition to the portal, which was the most common PPC tool used, other tools included e-mail communication (used during consultation of 90 proposals), workshops with stakeholders (30 proposals) and public meetings (9 proposals).

It is also estimated that 116 (or 52%) documents consulted on have met the minimum standards set by regulation. The public consultation processes had 2 104 participants, who made 1 119 comments, in meetings, groups or in writing. A total of 535 or 48% of the comments were taken into account, 183 (16%) were partially taken into account and 401 (36%) of the comments were not taken into account by the institutions.


The way forward for public-private consultations

In order to facilitate public-private dialogue and ensure SME involvement in PPCs, policy makers in the WBT economies should:

- **Improve PPC implementation and ensure that SMEs’ voices are also heard in this process.** Public-private consultations should be conducted for all major legislation, and economies should avoid circumventing them through an urgent procedure. This will allow the interested parties enough time to provide their views on the draft legislation, enhancing the quality of the proposals. Although the private sector participates in the PPCs through business associations, SMEs are not always members of these organisations, and chambers of commerce tend to be more vocal about the needs of large firms. This is why governments need to find a way to reach out to SMEs through online tools (Box 3.6) or even directly, as in the case of Montenegro (Box 3.4).

Box 3.6. Using ICT tools to foster PPCs – the Slovak Republic’s consultation portal

In the Slovak Republic, public consultations are required for every legislative proposal submitted to the government. All legislative drafts and their accompanying impact assessments are automatically published on the government portal at the same time as they enter the inter-ministerial comment procedure. The portal provides a single access point to comment on legislative proposals and non-legislative drafts (e.g. concept notes, green or white papers). It seeks to ensure easier orientation and search in legislative materials to facilitate the evaluation of the inter-ministerial consultation process, and to support compliance with legislative rules and time limits.
Both public authorities and members of the general public can provide comments on the legislative drafts and the accompanying material. All comments submitted are visible on the website. The deadline for comments is usually 15 working days. The general public can also access all final legislation through the government portal. Written comments can be submitted by members of the general public either as individual comments or as “collective comments”, to which individuals or organisations can signal their support. Whenever a comment receives support from 500 individuals or organisations, ministries are obliged to provide written feedback on the comment, either taking it into consideration in the legislative proposal or explaining why it has not been taken into account. The feedback provided is then part of the dossier submitted to the government for discussion.

Virtually all legislative proposals are adjusted following the consultation process. The number of comments received varies significantly for different legislative proposals. Accompanying impact assessments of the legislative proposal are also updated on the basis of the comments received. Following the consultation process, a summary of comments received together with the reasoning for their consideration or non-consideration is published on the portal for all consultations.


Conclusions

Overall, institutional and regulatory frameworks in the region are becoming increasingly well developed, while paying special attention to SMEs. Institutional frameworks for SME policies have been established in most of the WBT economies. Well-developed SME strategies are in place, they are being implemented according to plan and monitoring is mostly taking place regularly. However, a comprehensive evaluation of the effectiveness and cost efficiency of policy measures is largely non-existent in the region. And while measures to combat the informal economy have been introduced, they remain disconnected from SME strategies.

All WBT economies have taken some steps to review, simplify or eliminate legislation. However, the scope of regulatory reform varies across the WBT economies and monitoring remains weak. Since 2016, regulatory impact analysis has been a mandatory part of the policy-making system in the entire region. Nevertheless, even though RIAs for major regulations are formally required, the RIA process is unevenly institutionalised and not consistently practised.

Public-private consultations are formally required prior to all major regulations in most of the region, but the quality of the PPC process remains uneven across different institutions. Progress has been observed in SME participation in PPCs and most WBT economies have introduced a single government portal listing all ongoing PPCs in one place. However, control mechanisms or co-ordinating institutions that would ensure regular updates and consistent use of the portals are still largely missing.

The recommendations put forward in this chapter address policy reform priorities for building advanced institutional and regulatory frameworks in the WBT economies. They
aim to improve the reliability of SME policies and ensure that they address the needs of SMEs.

Notes

1 The WGI draw on four different types of source data: 1) surveys of households and firms, including the Afrobarometer surveys, Gallup World Poll, and Global Competitiveness Report survey; 2) commercial business information providers, including the Economist Intelligence Unit, Global Insight and Political Risk Services; 3) NGOs, including Global Integrity, Freedom House and Reporters Without Borders; and 4) public sector organisations, including the Country Policy and Institutional Assessments by the World Bank and regional development banks, the European Bank of Reconstruction and Development Transition Report and the French Ministry of Finance Institutional Profiles Database.

2 For North Macedonia’s new strategies in full, see Ministry of the Economy (2018[25]).

3 For a description of the complex administrative set-up in Bosnia and Herzegovina and how this was handled in the scoring process, please refer to Annex B.

4 For more details on the SME definitions in Bosnia and Herzegovina please see the chapter on Small Business Act Profile: Bosnia and Herzegovina.

5 The European Commission is currently evaluating the EU SME definition to: 1) ensure that available support and special measures to reduce the administrative burden focus on those enterprises most in need; 2) increase business predictability and legal certainty for enterprises by making the SME definition clearer and leave less room for interpretation; and 3) create a level playing field for EU-based SMEs within the Internal Market by fostering equal treatment for SMEs throughout the EU in terms of their access to public support and finance (EC, 2017[7]). On 8 June 2017, the Commission published an Inception Impact Assessment on the revision of the EU SME definition. Several months later, as part of this initiative, an online three-month public consultation with all interested actors was conducted to gather feedback on the quality and the impact of the SME definition.

6 For more information on the Small and Micro Business Assessment see Regulatory Policy Committee (2014[37]).

References


