

**PUBLIC ADMINISTRATION REFORM MONITORING IN BiH:
ANALYSIS OF RESULTS IN THE AREAS OF TRANSPARENCY, ACCOUNTABILITY
AND INTEGRITY
2015-2016**

This document has been prepared under the Public Administration Reform Monitoring (PARM) project, implemented by TI BiH and CIN, with financial support from the Swedish International Development Agency (SIDA) and the Government of Denmark. The views and opinions expressed herein are solely those of TI BiH and can in no way be taken to reflect the views of SIDA or the Government of Denmark.

March 2017

Abbreviations and acronyms

BiH	Bosnia and Herzegovina
BD	Brčko District
FBiH	Federation of Bosnia and Herzegovina
RS	Republika Srpska
CSA	Civil Service Agency

INTRODUCTION AND METHODOLOGY

Transparency International Bosnia and Herzegovina (TI BiH) is implementing the Public Administration Reform Monitoring (PARM) project in cooperation with the Centre for Investigative Reporting (CIN). The project is funded by the Embassy of Sweden – Swedish International Development Cooperation Agency (SIDA) and the Government of Denmark. As part of this project, a monitoring survey has been carried out and a report has been prepared on the results achieved by the public administration in the areas of transparency, accountability and integrity. The monitoring survey included public institutions at the state and entity levels of government.

In terms of the response rate, there was no significant improvement compared to 2015. Specifically, this year we distributed a total of 76¹ questionnaires (25 for the state level, FBiH and RS each + one for BD). Of the 76 institutions included in the sample, 41² failed to provide the requested information, thus refusing to contribute to the monitoring.

All data were collected through questionnaires that were completed by representatives of the monitored institutions. For the purposes of data processing, available reports of the institutions, audit reports and relevant regulations were also used.

GENERAL FINDINGS

INDICATORS

In order to determine the extent to which public institutions apply the standards of transparency, accountability and integrity, appropriate indicators were identified on the basis of which to measure the existence and enforcement of these standards. Transparency indicators gauge the existence of practice of preparing and disclosing relevant documents (reports, plans, etc.) that are essential for the work of the institution, as well as the institution's responsiveness to citizens in terms of proactive and reactive transparency. Accountability indicators show the extent to which accountability lines and mechanisms function within the institution. Also, these indicators show the extent to which the institution is accountable to other institutions to which it is by law obliged to report, as well as how accountable it is to the general public. Integrity indicators show whether the institution recognises external and internal risks of irregularities, and the extent to which it acts proactively to eliminate them.

1. Disciplinary liability

Disciplinary liability mechanism is envisaged under all three laws governing the legal status of civil servants. The Law on Civil Servants of RS differentiates between minor and gross dereliction of duty, both of which are subject to disciplinary action. Civil service laws at the FBiH and state levels do not make a distinction between minor and gross dereliction of duty, but instead exhaustively enumerate all forms of dereliction of duty that are subject to disciplinary action. Despite some differences, what the three laws have in common is, *inter alia*, that they provide that all civil servants may initiate disciplinary action by filing a request/disciplinary report; however, the filing of the request/report does not guarantee that such action will actually be brought. While the three laws also differ in terms of disciplinary sanctions that may be imposed on civil servants, all the sanctions basically boil down to the same three basic groups, namely: reprimands, fines in the form of reduced pay, and dismissal from the civil service as the most severe sanction available under the law.

¹ Annex 1 and Annex 2

² Annex 2

In the total sample of 14 institutions at the state level, there were as many as 148 disciplinary proceedings in the two-year reporting period (2015 and 2016), of which the majority took place in two institutions, namely the State Investigation and Protection Agency (SIPA) and the Indirect Taxation Authority (ITA), or, more specifically, only five disciplinary proceedings took place in the remaining twelve institutions. It is interesting that in ITA as many as 21 disciplinary proceedings were suspended during the reporting period because the proceedings had been initiated against persons against whom indictments were confirmed. Article 51 of the Law on Civil Service in the Institutions of BiH provides that all disciplinary proceedings shall be suspended, with the exception of Article 58³, in case of criminal proceedings initiated against a civil servant for the same facts as those investigated in the disciplinary proceedings until such time as a final ruling in the criminal proceeding is issued by the competent Court.

Of the 12 FBiH institutions that provided data for the monitoring survey, as many as eight did not take any disciplinary proceedings in the reporting period. Most proceedings occurred in the Tax Administration (12 of a total of 16). The most commonly imposed disciplinary sanction was public reprimand, and there was also one dismissal from the civil service.

Of the nine institutions in RS, five did not institute any disciplinary proceedings, and the remaining four initiated a total of only six disciplinary proceedings in the two-year reporting period. There was only one case of gross dereliction of duty, one disciplinary proceedings is still pending, and one ended in acquittal from disciplinary charges.

Conclusion: *As in previous years, there was a noticeable variation in the number of initiated disciplinary proceedings between institutions. As always, there were two or three institutions which took by far the highest number of disciplinary actions, with others facing very few cases of dereliction of duty. Alarmingly, the number of disciplinary actions was particularly high in the Indirect Taxation Authority, where several proceedings were suspended because criminal indictments were confirmed against the civil servants suspected of dereliction of duty.*

Recommendation: *Recommendations from previous monitoring reports are still relevant because the disciplinary liability mechanism did not undergo any noticeable legislative changes in the reporting period. Therefore, it would be advisable to harmonise the procedures relating to disciplinary proceedings by assigning the decisive role in the conduct of proceedings to the Civil Service Agencies. The latest amendments to the Law on Civil Servants of RS, which were adopted under urgent amendment procedures, softened the disciplinary sanctions by cutting the amounts and duration of fines by half.⁴ Therefore, it would be advisable to harmonise the penal policy in disciplinary proceedings at all levels by enacting consistent and uniform disciplinary measures.*

2. Lawsuits brought against institutions (by citizens and employees)

In the reporting period, five state-level institutions participating in the monitoring survey reported having been sued, with 22 lawsuits having been brought by third parties and 23 by institutions' employees. The aggregate value of the litigation costs for completed lawsuits was to the tune of BAM 10,838.21. However, a lot of the lawsuits are still pending and the estimated total value remains unknown for now. Only four of the 14 state-level institutions carry out customer-satisfaction surveys, namely: the Central Election Commission, the Communications Regulatory Agency, the Agency for Development of Higher Education and Quality Assurance, and the Market Surveillance Agency.

³ Article 58 concerns preventive suspension.

⁴ See more at: <https://ti-bih.org/blaze-disciplinske-mjere-za-drzavne-sluzbenike-u-republici-srpskoj-slabe-institut-disciplinske-odgovornosti/>

Of the twelve institutions at the FBiH level, eleven were sued by third parties or their own employees. The reasons for lawsuits brought by employees mainly concern payment of outstanding debts arising from employment. What is worrying, though, is the fact that in three institutions all lawsuits had a negative outcome for the institution. According to the information submitted, there were as many as 60 class-action suits (including a total of 272 persons) filed against the FBiH Bureau of Statistics for collection of outstanding debts arising from employment (holiday bonuses, jubilee awards, meals, etc.), and all lawsuits completed to date were found in favour of the plaintiffs. The total number of lawsuits (filed both by third parties and by employees) was 677, of which 92.9% were brought by institutions' employees before the competent courts for the settlement of disputes arising from employment. The total amount paid out thus far by the FBiH institution participating in the monitoring survey by way of litigation expenses was to the tune of BAM 19,024,397. Only one institution (FBiH Bureau of Statistics) was found to carry out customer-satisfaction surveys.

Of the nine institutions in RS, lawsuits were filed against six. Only two institutions were found to undertake regular customer-satisfaction surveys (National Assembly of RS and RS Institute for Statistics). The total number of lawsuits brought against the institutions that participated in the monitoring survey was 44, of which the largest proportion were brought by third parties. The value of the litigation costs to date is estimated at around BAM 32,000.

Conclusion: *As in previous years, there is a continuingly large number of lawsuits filed both by third parties and by institutions' own employees. Particularly alarming is the high number of lawsuits brought by employees in some of the institutions, as well as the very high aggregate value of litigation costs, but also the fact that the overwhelming majority of lawsuits filed against institutions at the FBiH level were found in favour of the plaintiffs.*

Recommendation: *It is necessary to analyse the reasons why lawsuits are brought against institutions and devise a plan of measures and activities to reduce the number of lawsuits with a view to cutting the litigation costs.*

3. Access to information

The main conclusion of the 2014-2015 PARM monitoring report was that the concept of transparency and responsiveness in the institutions comes down to the so-called reactive model, meaning that access to information is granted to citizens following the submission of requests for information. Access to information is regulated by the Freedom of Access to Information Laws (BiH, RS, FBiH), which generally contain the same or similar provisions, except that the state-level Law also contains provisions on sanctions and inspection.

Six of the 13 state-level institutions that provided data for this indicator do not have a position of information officer envisaged under their staffing plans. The most common reasons for denying access to information include *exemption for the protection of personal privacy* and *exemption for confidential commercial information*. 54.9% of requests for information were submitted by natural persons, and the remainder by legal persons. Based on the sample of 13 institutions, it turns out that every institution handled an average of 94 requests during the reporting period. The most commonly requested information concerned employment, procurement plans, performance appraisal reports, etc.

Of the 12 institutions in FBiH, only three do not have an information officer. The most commonly requested information includes: data about employees, general documents, minutes from meetings, etc. Here, too, the most common reasons for denying access to information include *exemption for the protection of personal privacy* and *exemption for confidential commercial information*. Of the

total number of submitted requests, 54.5% were filed by legal persons. Each institution handled an average of about 189 requests for information during the two-year reporting period, i.e. about 95 requests annually.

In RS as many as 85.4% percent of the requests for information were submitted by legal persons. Each institution handled an average of 123 requests during the reporting period. Only two out of the nine institutions do not have an information officer. The most commonly requested information and the reasons for denying access do not differ from the state and FBiH levels of government.

Conclusion: *All levels of government received a large number of requests for information. The information requested mainly concerned the work of the institutions or their employees. Interestingly, most of the requests were responded to, and where access was denied it was mainly based on statutory exemptions for the protection of personal privacy and confidential commercial information. There are no marked discrepancies between different levels of government, except that in RS requests were more likely to be filed by legal persons.*

Recommendation: *The extremely large number of requests for access to information at all government levels suggests that institutions continue to underutilise new technologies, i.e. that the concept of proactive transparency is not the dominant model in the practical implementation of the principle of transparency. Institutions are therefore advised to disclose more information on their official websites as well as make use of modern technologies to establish a new information sharing practice, regardless of the legal regulations that currently contain very few proactive disclosure provisions.*

4. Budget and budget reporting

The majority of state-level institutions do not routinely prepare and publish citizens budgets, and only three of the 14 institutions publish their budgets on their official websites. When asked about other forms of budget presentation, institutions mainly cite annual activity reports or the Official Gazette.

In FBiH, of the 12 institutions participating in the monitoring survey, the practice of publishing an analytical budget exists only in the FBiH Ministry of Agriculture, Water Management and Forestry, whereas citizens budget and special forms of budget presentation are prepared only by the FBiH Ministry of Finance. Also, budgets are made available through publication in the Official Gazette or through audit reports.

Analytical budget, citizens budget and special forms of budget presentation exist in three institutions in RS, namely the National Assembly of RS, the RS Civil Protection Administration, and the RS Pedagogical Institute. This practice does not exist in the other institutions. Institutions mainly report that the budgets are presented through publication in the Official Gazette.

Conclusion: *The state of budget transparency in terms of proactive disclosure remains unsatisfactory, and most institutions do not routinely use special forms of budget presentation to present the budget to the general public. There are no marked differences between government levels as regards the state of budget transparency.*

Recommendation: *It is necessary to ensure proactive transparency of the entire budget cycle and explicitly provide for mandatory proactive disclosure of budget cycle information in a form that is accessible and understandable to citizens. This recommendation from last year's monitoring report still remains fully relevant today.*

5. Staffing

At the state level, only four of the 14 institutions routinely publish the staffing plans on their official websites. Based on collected information, staffing plans are revised frequently and on an as-needed basis, and a large number of positions remain unfilled. On average, each institution has 62 unfilled positions.

At the FBiH level staffing plans are revised even more frequently than at the state level, with one institution having revised its staffing plan as many as eight times in the last eight years. Also, the average number of unfilled positions per institution is slightly higher than in the state-level institutions, at about 88, and unfilled positions exist in all the institutions participating in the monitoring survey.

In RS the situation is somewhat different as, other than through publication in the Official Gazette, the majority of staffing plans are available through other means of communication too. Similarly, though, revisions are as frequent as on other government levels and are undertaken on an as-needed basis. There are an average of 11 unfilled positions per institutions, according to information from the sample.

Audit reports underlined that the staffing plans, being medium-term planning documents, should be adapted such to establish the optimal number of staff to perform the tasks and duties within the purview of institutions.⁵ A similar statement is found in the 2011-2013 performance audit report "Employment in Public Administration" issued by the Supreme Office for the RS Public Sector Auditing.⁶ Also, audit findings indicate inordinately low staffing levels across all categories of staff for civil service positions requiring university education. As mentioned in the last year's monitoring report, this raises considerable doubts as to the quality of the current staffing plans and the extent to which they take due account of the efficiency, existing resources and cost-effectiveness of public administration. Particularly notable and noteworthy is the following observation from the aforementioned performance audit report: "The difference between the number of positions envisaged under the staffing plans and the actual staffing levels is found to be several times higher than the defined maximum difference of 5%. This may indicate:

- 1) either that the staffing plans are oversized relative to the actual staffing needs,
- 2) or that the tasks are not performed as per the envisaged extent, quality and timeframe."⁷

Conclusion: *Findings do not differ by level of government, and unfilled positions exist at all government levels and in most of the monitored institutions, which coincides with the findings from previous years. The lack of a consistent and strategic HR planning is evident because staffing plans are inadequate in that they do not take into account existing capacities when planning the performance of envisaged tasks and duties, as well as the overall context in which the public administration operates.*

Recommendation: *In preparing staffing plans, institutions should keep in mind the strategic documents and general commitment of the public administration based on the principles of efficiency*

⁵ See more in: Audit office for the Institutions of the Federation BiH, Report on the Audit of the Financial Statements of the FBiH Ministry of Justice as at 31 December 2014, No. 03-11/15, April 2015; Audit office for the Institutions of the Federation BiH, Report on the Audit of the Financial Statements of the FBiH Ministry of Physical Planning as at 31 December 2014, No. 03-17/15, March 2015

⁶ 2011-2013 performance audit report 'Employment in Public Administration' issued by the Supreme Office for the Republika Srpska Public Sector Auditing, Banja Luka, July 2014, p. 34 http://www.gsr-rs.org/static/uploads/report_attachments/2014/07/29/RU003-13_Cyr.pdf (accessed on 05/02/2016)

⁷ Ibid, p. 34.

and effectiveness. This would mean that a carefully prepared staffing plan should take into account existing capacities and that each position should be analysed such to verify whether its existence is warranted. Staffing plans should result from a long-term planning of human resources and should not be developed in an unplanned manner or on an “as-needed basis”.

6. Audit reports

Based on the available information about the RS institutions that participated in the monitoring survey, three institutions were audited in the reporting period, two of which received qualified opinion, and one received unqualified opinion. Among the analysed audit reports for the state-level institutions, there were two qualified opinions, while in the majority of the reports the Office issued unqualified opinion with modified wording. All institutions were given recommendations to comply with the laws and regulations in the field of financial management and control and to take appropriate action to establish, develop and implement financial management and control.

Below are some of the findings and recommendations contained in audit reports for institutions at all government levels:

- We recommend that the management of the Agency, in accordance with applicable regulations and without delay, take all necessary actions to adopt the Rules on Internal Organisation and Staffing in order to finally ensure functional and efficient internal organisation and staffing plan as a basic prerequisite for competent and professional performance of tasks within the Agency’s purview.⁸
- We recommend that the Ministry increase oversight over the use of cars and ensure that all Ministry’s cars are used in a cost-efficient manner and for the purposes for which they are intended. It is also necessary to harmonise the internal rules with the Rules of the Council of Ministers insofar as they relate to the scope of the right of use of official vehicles;⁹
- We recommend that the ITA management pay maximum attention to human resources management and, in particular, analyse the actual staffing situation, determine the optimal number of staff needed, and compare and harmonise that number with the adopted Rules on Internal Organisation. Finally, it is necessary to address the issues of implementation of the Rules on Internal Organisation in a systematic and strategic way as this long-standing issue continues to generate a lot of problems. The ITA management is to resolve this issue in collaboration with the ITA Steering Board;¹⁰
- Goods are to be procured from bidders with whom the contract was concluded in accordance with the Public Procurement Law. Also, with regard to the contract price and the type of goods, it is necessary to ensure compliance with provisions of the concluded contracts and the bids that are an integral part thereof;¹¹
- As regards filling in travel order forms and the parking of cars in designated places, official vehicles are to be used in accordance with the provisions of the Regulation on the Conditions, Methods of Use and Procurement of Official Passenger Cars in the Administrative Bodies of FBiH, the Regulation on Mandatory Content and Manner of Filling in Travel Order

⁸ Audit Office of the Institutions of BiH, Financial Audit of the Civil Service Agency of BiH for 2015, No. 01/02/03-07-16-1-553/16, Sarajevo, June 2016

⁹ Audit Office of the Institutions of BiH, Financial Audit of the Ministry of Civil Affairs of BiH for 2015, No. 01/02/03-08-16-1-560/16, Sarajevo, June 2016

¹⁰ Audit Office of the Institutions of BiH, Financial Audit of the Indirect Taxation Authority of BiH for 2015, No. 01/02/03-07-16-1-751/16, Sarajevo, March 2016

¹¹ Audit Office for the Institutions of the Federation BiH, Financial Audit of the FBiH Ministry of Finance for 2015, No. 03-11/16, Sarajevo, July 2016

Forms, and the Regulation on the Conditions, Methods of Use and Procurement of Official Passenger Cars of the Ministry;¹²

- The Ministry for Refugees and Displaced Persons of RS failed to establish criteria for funding projects that are classified as grants;¹³
- Planning, awarding, reporting on and control of spending of the grant has not been done in accordance with the Methodology for Managing Grants for Programmes and Projects Funded or Co-funded from the Budget of RS;¹⁴
- The audit found irregularities in the implementation of public procurement procedures in the District Commercial Court in Banja Luka, the Ministry, and the Basic Court in Banja Luka;¹⁵
- Institutions operating under the jurisdiction of the Ministry of Justice of RS in 2015 generated liabilities greater than those approved and available under the revised budget by at least BAM 1,363,270, contrary to Article 40, paragraph (1) of the Law on Budget System of RS.¹⁶

Conclusion: *An undesirable practice has been adopted wherein institutions do not disclose audit reports relating to them. Also, it has been found that even though they have a recommendation implementation plan in place, institutions often do not act on audit recommendations, causing recommendations to be repeated. One oft-repeated recommendation concerns the absence of internal audit.*

Recommendation: *Audit reports should be made publicly available on the official websites of the institutions, and a practice should be established of disclosing recommendation implementation plans and reporting on compliance. Special procedures need to be introduced, including for calling institutions to account for non-compliance.*

7. Temporary service contracts

Five of the 14 state-level institutions have a service contracting plan in place. The aggregate value of temporary service contracts concluded by the state-level institutions participating in the monitoring survey was BAM 966,573.00, or an average of BAM 69,040.00 per institution. Only two institutions did not conclude any service contracts in the reporting period.

Five of the 11 FBiH institutions have a service contracting plan in place, which they use for planning temporary service contracts. The total number of temporary service contracts concluded in the reporting period was 270, or an average of about 25 per institution. The total amount of money spent was BAM 668,685.76, or an average of BAM 60,789.61 per institution.

Similarly, in RS, of the nine institutions, only one has a service contracting plan in place, with the aggregate value of contracts to the tune of KM 195,424.88, or an average of KM 24,428.11 per institution.

Below are the findings of audit reports from all three government levels, focusing on temporary service contracts, and planning and administration of service contracting. These are: performance

¹² Ibid.

¹³ Supreme Office for the RS Public Sector Auditing, Report on the Audit of the Financial Statements of the RS Ministry for Refugees and Displaced Persons for 2015, July 2016: http://www.gsr-rs.org/static/uploads/report_attachments/2016/04/13/RI050-16_Cyr.pdf

¹⁴ Ibid.

¹⁵ Supreme Office for the RS Public Sector Auditing, Report on the Audit of the Financial Statements of the RS Ministry of Justice for 2015, July 2016: http://www.gsr-rs.org/static/uploads/report_attachments/2016/08/05/RI008-16_Cyr.pdf

¹⁶ Ibid.

audit report of the Audit Office of the Institutions of BiH: *Managing Temporary Service Contracts in the Institutions of BiH*;¹⁷ performance audit report of the Audit Office for the Institutions of FBiH: *Spending Public Funds from the FBiH Budget for Service Contracts*;¹⁸ performance audit report of the Supreme Office for the RS Public Sector Auditing: *Hiring Individual Contractors in Administrative Bodies on a Temporary Service Basis*.¹⁹

The main findings for the state-level institutions²⁰:

- Studies have shown that the administration of temporary service contracts is not paid due regard.
- Institutions' activities and established practices of planning, contracting control mechanisms and availability of information on the effects of executed contracts do not ensure effective contract management in the institutions of BiH.
- At the level of BiH institutions there are no uniform rules and procedures on service contracting, the amount of compensation, the duration of contracts, reporting on the work done, the necessary professional qualifications, etc.
- The existing practice of planning the contracting needs in the institutions of BiH do not ensure the basic prerequisites of transparency, cost-effectiveness and efficient spending of public money.
- Planning comes down to budgeting in the preparation of institutions' budgets. Most institutions' budget requests are approved by the MFT even if they do not contain the required analysis and adequate explanation of the needs for service contracts.
- Information on the effects of executed contracts, aimed at ensuring transparent spending of public money and work of the Council of Ministers, is not available to the competent institutions and, consequently, the general public.

The main findings for the FBiH institutions:

- There is no verification of the regularity of or rationale behind concluded contracts.
- There are shortcomings in the planning of temporary service contracts. There is no systematic approach to planning funds for the contracts because most of the information needed for good planning is, in these circumstances, usually a matter of choice and personal judgement of people involved in the planning process, or the head of the institution.
- Temporary service contracts are often signed with the same people. Most FBiH institutions did not ensure transparency in the selection of the person with whom to sign a service contract. It is estimated that among people with whom service contracts have been concluded there are employees of FBiH authorities who, in some situations and under such contracts, perform tasks which belong to the regular activities of the institution or simultaneously carry out work for other FBiH authorities.
- Service contracts are usually concluded at the discretion of the heads of FBiH institutions.
- There are no procedures for monitoring concluded temporary service contracts.
- FBiH institutions do not provide sufficient information on temporary service contracts.

¹⁷ See more at: http://www.revisija.gov.ba/revisioni_izvjestaji/revisija_ucinka/Izvjestaji2014/?id=3524

¹⁸ See more at: <http://www.saifbih.ba/javni-izvj/Report.aspx?id=6954&langTag=bs-BA>

¹⁹ See more at: http://www.gsr-rs.org/static/uploads/report_attachments/2016/12/29/RU001-16_Lat.pdf

²⁰ According to the report by the Audit Office of the Institutions of BiH "Monitoring Implementation of Performance Audit Recommendations". The quote is taken from the section on performance audits regarding service contracts, p. 59.

See more at: http://www.revisija.gov.ba/revisioni_izvjestaji/revisija_ucinka/Izvjastaji2016/?id=4798

The main findings for the RS institutions:

- The administrative bodies do not plan the tasks whose performance will be subject to service contracting, the needs for individual service contractors, the number of individual service contractors to be hired, the resources needed for their engagement, the method and dynamics of their engagement, and other important aspects of their engagement.
- The administrative bodies do not have the rules, practices and procedures governing the actions of the administration bodies in terms of selection and engagement of individual service contractors. Selection practices differ both among and within the administrative bodies, and generally do not include a transparent procedure for the selection of individual service contractors.
- Temporary service contracts suffer from certain formal and substantive shortcomings, in particular in terms of the vague definition of the scope of contracts. Most temporary service contracts concluded establish the relationship between the contracting authority and the individual contractor in substantive terms, where the individual contractor is completely independent from the contracting authority in the execution of contracted services, which should not be the point of this type of contracting.
- The method of determining compensation for individual service contractors under temporary service contracts is not aligned with the basic principles and characteristics of service contracts and is not geared towards ensuring effective engagement of individual service contractors.
- There is no system in place to monitor and oversee the engagement and performance of individual service contractors.

Conclusion: *In most institutions at all government levels there is no routine planning of service contracting and excessive resources continue to be devoted to such contracts. Audit offices at all levels of government conducted special performance audits focusing on service contracts, and administration and planning of service contracting. The common finding is that there is no routine planning, no control mechanisms to ensure the quality of services thus provided, and no clear procedures and rules governing the actions of public authorities in this area, which leaves room for opaque selection of individual service contractors.*

Recommendation: *It is necessary to ensure that all levels of government have clearly defined framework rules and procedures with regard to temporary service contracts based on the principle of administrative transparency, and cut the current expenditure levels for such contracts. Also, it is necessary to introduce a system to control and oversee the quality of work performed. This would mean that audit recommendations should be consistently complied with at all levels of government.*

8. Public procurement

At the state level, all institutions post their public procurement plans online. On average 58 public procurement procedures are started annually. In FBiH procurement plans are publicly available in eight institutions, and on average 28 procurement procedures are started annually. In RS, six institutions have publicly available procurement plans, and the average number of public procurement procedures initiated annually is 34.

Below are some findings from the audit reports issued for the institutions participating in the monitoring survey, which are related to the area of public procurement:

- The 2015 Public Procurement Plan of the District Commercial Court in Banja Luka does not include the estimated values of planned procurements, in contravention of Article 17, paragraph (1), of the Public Procurement Law²¹;
- For procurements carried out by competitive request and direct agreement, no further procurement notice has been published on the public procurement portal as required by Article 35, paragraph (1) and Article 88, paragraph (1) of the Public Procurement Law;²²
- Reports on conducted public procurement procedures were not submitted to the Public Procurement Agency and basic elements of the contract were not published, which is in contravention of Article 75, paragraphs (1) and (2) of the Law, and Article 9, paragraph (3) of the Instructions on the Conditions and Method of Publishing the Notice and Delivering Public Procurement Reports within the “E-procurement” information system.²³
- The Ministry has not implemented public procurement procedures for servicing and maintenance of vehicles, contrary to Article 1, Paragraph 2 of the Public Procurement Law.²⁴
- Recognising that in the recent period the PARCO has had difficulties in the implementation of public procurement procedures, i.e. that the procedures did not result in conclusion of contracts, we recommend that special attention be paid to this issue and that Office’s weaknesses be analysed so that they could be overcome in the coming period.²⁵

Conclusion: *Public procurement plans are still not publicly available in all public institutions, and audit reports mainly highlight the need for ensuring that public procurement procedures are implemented properly and in a timely fashion, in accordance with all applicable regulations.*

Recommendation: *Ensure that audit recommendations are acted upon, in particular those relating to public procurement procedures, and that all public procurement plans are made publicly accessible.*

9. Integrity Plan

According to the Guidelines for the Preparation and Implementation of the Integrity Plan²⁶ of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption, Integrity Plan is an internal document which contains a set of legal and practical measures aimed at preventing and eliminating opportunities for the emergence and development of different forms of corrupt behaviour and corruption in the public institution. The Guidelines further define that Integrity Plan is the result of the process of self-control of the public institution with a view to maintaining and increasing integrity, transparency and professional ethics, which serves to detect, reduce, eliminate and prevent the possibility of occurrence and development of irregularities, ethically and professionally unacceptable actions, and corrupt behaviour and corruption.

All 14 state-level institutions participating in the monitoring survey have the Integrity Plan in place, most of which were adopted in 2014 and 2015. Six institutions did not make their integrity plans publicly available. Measures that have been implemented or are being implemented mainly

²¹ According to: Report on the Audit of the Aggregated Financial Statements of the Ministry of Justice of RS for the period 01/01 – 31/12/2015, July 2016 (http://www.gsr-rs.org/static/uploads/report_attachments/2016/08/05/Ri008-16_Lat.pdf)

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Audit Office of the Institutions of BiH, Report on the Financial Audit of the Public Administration Reform Coordinator’s Office of Bosnia and Herzegovina for 2015, No. 01/02/03-07-16-1-642/16, Sarajevo, June 2016

²⁶ See more at: http://apik.ba/zakoni-i-drugi-akti/Plan_integriteta/Archive.aspx?langTag=bs-BA&template_id=196&pageIndex=1

relate to internal corruption reporting mechanisms, improved communication channels, continuing and targeted education, etc.

Of the 12 FBiH institutions, only four adopted the Integrity Plan in the two-year reporting period, and an additional three have done so in 2017. Activities implemented under the integrity plans include the adoption of new general acts, analyses of the vulnerability of jobs to corruption risk, the appointment of civil servants responsible for handling internal corruption reports, etc.

Of the nine institutions in RS, none adopted the Integrity Plan, but three are currently drafting it.

Conclusion: *Compared to last year, there has been an increase in the number of institutions that have adopted the Integrity Plan. Also, it is noticeable that integrity plans are being developed in RS, where there are currently the fewest plans in place. There practice of not making integrity plans publicly available on the official websites still prevails.*

Recommendation: *All institutions should adopt Integrity Plans as envisaged under the relevant strategic documents. It is necessary to monitor the implementation of recommendations under the Plans and to improve or establish the practice of their presentation to the general public.*

10. Annual reports

Of the 14 institutions at the state level, four do not routinely disclose their annual reports on their official websites. Three of the nine institutions in FBiH and five of the eight institutions in RS do not publish their annual reports on their websites.

Conclusion: *The continuingly high number of institutions at all government levels do not routinely communicate their annual reports to the public. The most-commonly cited reason for non-disclosure is the absence of a legal obligation in this respect, which is only partly true.*

Recommendation: *It is necessary to introduce mandatory proactive disclosure of institutions' annual reports by way of appropriate statutory or regulatory provisions.*

11. Recruitment (vacancies and job competitions)

In the 2014-2015 period, the 12 state-level institutions employed a total of about 300 new staff, or an average of 21 persons per institution. This means that an average of five persons per year get a job in public administration bodies at the state level. At the FBiH level, a total of 21 staff were employed in the nine institutions that provided data. In RS, 64 new staff were employed by the eight participating institutions, or an average of eight per institution.

Conclusion: *Currently in force in FBiH is the conclusion of the FBiH Government suspending any recruitment of civil servants and employees [in public administration bodies] until 31 March 2016. In 2010 the RS Government adopted a conclusion suspending any recruitment to public administration unless the RS Government gives its consent for new recruitments by way of a special procedure. Governments at all levels have committed themselves to limiting employment in public administration in accordance with the Reform Agenda until such time as revised staffing plans have been adopted. The findings of this monitoring survey, however, show that this has not yet had the desired effect on the dynamics of employment in public administration.*

Recommendation: *It is necessary to devise a clearly defined recruitment monitoring and analysis system for a specific time period with a view to establishing whether the achieved recruitment dynamics is in accordance with the set objectives.*

FEATURED RECOMMENDATIONS

- ❖ **Harmonise the penal policy in disciplinary proceedings** at all levels by enacting consistent and uniform disciplinary measures.
- ❖ **Analyse the reasons why lawsuits are brought against institutions and devise measures and activities** to reduce the number of lawsuits with a view to cutting the litigation costs.
- ❖ **Institutions are advised to disclose more information on their official websites** and to make use of modern technologies to establish a new information sharing practice.
- ❖ **It is necessary to ensure proactive transparency of the entire budget cycle** and explicitly provide for mandatory proactive disclosure of budget cycle information in a form that is accessible and understandable to citizens.
- ❖ In preparing staffing plans, institutions should keep in mind the strategic documents and general commitment of the public administration based on the principles of efficiency and effectiveness. This would mean that a carefully prepared staffing plan should **take into account existing capacities** and **that each position should be analysed** such to verify whether its existence is warranted. **Staffing plans should result from a long-term planning of human resources and should not be developed in an unplanned manner or on an “as-needed basis”.**
- ❖ **Ensure that audit reports are published** on the official websites of the institutions and that **audit recommendation implementations plans are routinely made publicly accessible.**
- ❖ Ensure that all levels of government have **clearly define framework rules and procedures with regard to temporary service contracts** based on the principle of administrative transparency, and **reduce the current expenditure levels** for such contracts.
- ❖ **Ensure that audit recommendations are acted upon**, in particular those relating to public procurement procedures, and that all public procurement plans are made publicly accessible.

- ❖ **All institutions should adopt Integrity Plans** as envisaged under the relevant strategic documents. It is necessary to monitor the implementation of recommendations under the Plans and to improve or establish the practice of their presentation to the general public.
- ❖ It is necessary to introduce **mandatory proactive disclosure of institutions' annual reports** by way of appropriate statutory or regulatory provisions.
- ❖ **Devise a clearly defined recruitment monitoring and analysis system** for a specific time period with a view to establishing whether the achieved recruitment dynamics is in accordance with the set objectives.

Annex 1 – List of the institutions that returned PARM questionnaires

BiH institutions:

1. Civil Service Agency,
2. Public Administration Reform Coordinator's Office,
3. Ministry of Civil Affairs of BiH,
4. Ministry of Finance and Treasury of BiH,
5. Directorate for European Integration,
6. Communications Regulatory Agency,
7. Agency for Development of Higher Education and Quality Assurance of BiH,
8. Agency for Prevention of Corruption and Coordination of the Fight against Corruption,
9. Ministry of Security of BiH,
10. State Investigation and Protection Agency,
11. Personal Data Protection Agency,
12. Indirect Taxation Authority,
13. Central Election Commission,
14. Agency for Identification Documents, Registers and Data Exchange of BiH, and
15. Market Surveillance Agency of BiH.

FBiH institutions:

1. Ministry of Finance of FBiH,
2. Civil Service Agency of FBiH,
3. Tax Administration of FBiH,
4. Ministry of Agriculture, Water Management and Forestry of FBiH,
5. Ministry of Physical Planning of FBiH,
6. Banking Agency of FBiH,
7. Agency for Privatisation in FBiH,
8. Office of Statistics of FBiH,
9. Institute for Development Programming of FBiH,
10. Ministry of Trade of FBiH,
11. Ministry of the Interior of FBiH.

RS institutions:

1. Ministry for Refugees and Displaced Persons,
2. Administration for Inspection Affairs of RS,
3. Agency for Development of Small and Medium Enterprises of RS,
4. Institute of Statistics of RS,
5. National Assembly of RS,
6. Pedagogical Institute of RS,
7. Administration of Civil Protection of RS,
8. Banking Agency of RS.

Annex 2 – List of institutions that have failed to return PARM questionnaires

BiH institutions:

1. Ministry of Justice,
2. Ministry of Foreign Affairs,
3. Ministry of Defence,
4. Ministry for Refugees and Displaced Persons,
5. Central Harmonisation Unit (Ministry of Finance and Treasury),
6. Directorate for Coordination of Police Bodies of BiH (Ministry of Security of BiH),
7. Ministry of Transport and Communications,
8. Directorate for Economic Planning,
9. Ministry of Foreign Trade and Economic Relations, and
10. Agency for Statistics of BiH.

FBiH institutions:

1. Ministry of Justice of FBiH,
2. Ministry of Displaced Persons and Refugees of FBiH,
3. Ministry of Health of FBiH,
4. Directorate for Commodity Reserves of FBiH,
5. Administration for Geodetic and Real-Property Affairs of FBiH,
6. Securities Commission of FBiH,
7. Public Health Institute of FBiH,
8. Parliament of FBiH,
9. Employment Service of FBiH,
10. Ministry of Transport and Communications of FBiH,
11. Directorate for Military Industry of FBiH,
12. Ministry of Energy, Mining and Industry of FBiH,
13. Ministry of Education of FBiH, and
14. Archive of FBiH.

RS institutions:

1. Ministry of Finance of RS,
2. The Ministry of Labour and Veterans Protection of RS,
3. Helicopter Service of RS,
4. Ministry of Agriculture, Forestry and Water Management
5. The Ministry of Health and Social Welfare,
6. Ministry of Justice of RS,
7. The Ministry of Spatial Planning, Civil Engineering and Ecology of RS,
8. Administration for Geodetic and Real-Property Affairs,
9. Tax Administration,
10. Ministry of Industry, Energy and Mining of RS,
11. Ministry of Economic Relations and Regional Cooperation of RS,

12. Directorate for Commodity Reserves,
13. Ministry of Family, Youth and Sports of RS,
14. Administration for Games of Chance,
15. Ministry of Science and Technology of RS,
16. Civil Service Agency, and
17. Ministry of Public Administration and Local Self Government of RS.

Brčko District

Department of Human Resources of the Government of Brčko District